

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

LYNNE FREEMAN,

Plaintiff,

v.

TRACY DEEBE-ELKENANEY P/K/A TRACY
WOLFF, et al.,

Defendants.

Case No.: 1:22-cv-02435-LLS-SN

PLAINTIFF'S RESPONSE TO DEFENDANTS' LOCAL RULE 56.1
STATEMENT OF MATERIAL FACTS

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Pursuant to Rule 56.1 of the Local Rules for the United States District Court for the Southern and Eastern Districts of New York (the “Local Rules”), Plaintiff Lynne Freeman (“Freeman”) respectfully submits the following Plaintiff’s Response to Defendants “Local Rule 56.1 Statement of Material Facts in Support of their Motion for Summary Judgment and in Opposition to Plaintiff’s Motion for Summary Judgment.” Plaintiff objects to the below paragraphs of alleged material facts to the extent that they are not short and concise statements as required by Rule 56.1.

Plaintiff Lynne Freeman’s manuscript entitled *Blue Moon Rising*, and later called *Masqued*, shall sometimes be referred to herein as “BMR” and sometimes “Masqued.”

A. The Parties

1. Plaintiff is a non-practicing family law attorney and primarily resides in California. (Freeman Dep. 15:9-13, 22:11-24; Baer Dep. 24:8-17.)

Response to No. 1: Disputed: Plaintiff is a resident of Alaska. (Freeman Depo. 15:20 - 16:10, a true and correct copy of which is attached to the Passin Decl., ¶ 2 and Ex. 1 thereto.). Plaintiff is a licensed attorney in the state of Alaska who has been practicing law for over 28 years. She currently does consulting work for people who cannot afford an attorney. (*Id.* at 19:3 –20.);(Suppl. Freeman Decl., ¶ 2.).

2. Plaintiff’s husband Trent Baer, an investment advisor, has been actively involved in the prosecution of this lawsuit. (Baer Dep. 15:23-25, 19:25-20:1; 87:14-19; 104:17-105:18, 114:14-115:21, 116:19-25.)

Response to No. 2: Undisputed.

3. Defendant Tracy Wolff is a #1 *New York Times*, #1 International, and *USA Today* bestselling author of nearly 70 novels that span the genres of adult and YA literature. (Wolff Dep.

34:6-8; 51:24-52:6, 53:7-10, 69:1-5; December 22, 2023 Decl. of Tracy Wolff (“Wolff Decl.”) ¶ 5; December 22, 2023 Decl. of Elizabeth Pelletier (“Pelletier Decl.”) ¶ 3.) Wolff first appeared on the *New York Times* and *USA Today* bestseller lists in 2014. (Wolff Decl. ¶ 10.) Wolff published her first novel in 2007. (Wolff Dep. 33:15.) Beginning in 2008, Wolff has written for Penguin Random House, HarperCollins, Little Brown (Hachette), Harlequin, Bloomsbury, Entangled, and others. (Wolff Decl. ¶ 10.) Wolff has, *inter alia*, been nominated for the Romance Writers of America’s RITA Award (the highest award of distinction for romance fiction). (*Id.*) Her YA novel *Doomed* was chosen for a Texas state reading list and her novel *Tempest Rising* went back to print six times in the two years after it was first published. (*Id.*) Wolff has consistently published three-to-ten books per year since 2008. (*Id.*)

Response to No. 3: Partially undisputed and partially disputed. Wolff did not author nearly 70 novels that span the genres of adult and YA literature. She testified in her declaration that she wrote “over 60 books (46 full-length novels in the paranormal romance, urban fantasy, young adult, new adult, erotic, and contemporary romance genres; eight children’s books; and ten novellas, with another two novellas and eight novels predating Freeman’s acquaintance with Emily.)” (Wolff Decl., ¶5).

4. Wolff, whose legal name is Tracy Deebs-Elkenaney, is the author of the Crave series, which is written under her pen name Tracy Wolff. (Wolff Dep. 10:7-9, 179:7-9.) Wolff has also written under the pen names Tracy Deebs, Ivy Adams, and Tessa Adams. (Wolff Dep. 9:21-25.)

Response to No. 4: Partially undisputed and partially disputed. Plaintiff admits that Wolff is credited as the author of the Crave series and “has also written under the pen names Trach Deebs, Ivy Adams and Tessa Adams.” (*See* corrected Plaintiff’s Rule 56.1

Statement of Undisputed Facts in Support of Her Motion for Summary Judgment, ECF 289 (Pl’s Rule 56.1 Statement), ¶7 and the evidence cited therein), but disputes that Wolff created or solely wrote the Crave series as that series copies from BMR and is substantially similar to BMR. (Plaintiff Rule 56.1 Statement, ¶¶ 1, 2, 16, 17, 18, 19, 20-24, 30, 32-43,45, 48-100, 104-181 and the evidence cited therein); (Freeman Decl., ¶¶ 5 -7; 13 – 41 and Exs. 3-11, 14-19, 31-50 attached thereto); (Doniger Decl. ¶¶36 - 38 and Exs. 35, 36 and 37 attached thereto);(Chaski Report, attached as Ex. 35 to the Doniger Decl.);(Juola Report, attached as Ex. 37 to the Doniger Decl.);(Reiss Report, attached as Ex. 36 to the Doniger Decl.);(Plaintiff’s Indices attached to the Freeman Decl.,¶¶ 14, 17-18, 22-39 and Exs. 32 & 36 - 45 (hereinafter Plaintiff’s Indices”);(Reiss Decl., ¶¶ 2-12);(Chaski Decl., ¶¶2-11).

5. Wolff grew up and went to high school in San Diego. (Wolff Dep. 37:8-11; Wolff Decl. ¶ 18(a).)

Response to No. 5: Undisputed.

6. Defendant Entangled is the publisher of the Crave series. (Wolff Dep. 13:9-10; Pelletier Dep. 14:2-4.).

Response to No. 6: Undisputed.

7. Elizabeth Pelletier is the majority owner and Chief Executive Officer of Entangled. (Pelletier Dep. 12:23-24; Abrams 28:15-16.)

Response to No. 7: Undisputed.

8. Defendant Prospect Agency is a literary agency founded by Defendant Kim in 2005. (Kim Dep. 40:13-41:7; December 22, 2023, Declaration of Emily Sylvan Kim (“Kim Decl.” ¶ 7.)

Response to No. 8: Undisputed.

9. Kim is the principal of Prospect and has served as Wolff’s literary agent since 2007. (Wolff Dep. 44:3-4, 45:18-46:16; Kim Dep. 40:13-41:7; Kim Decl. ¶¶ 7, 60; Doniger Ex. 39 (Wolff-Kim Agency Agreement)).

Response to No. 9: Undisputed.

10. Plaintiff and Kim entered into a written agency agreement, which was executed by Freeman on December 8, 2010. (Doniger Ex. 39; Kim Dep. 43:12-44:4; Kim Decl. ¶ 15).

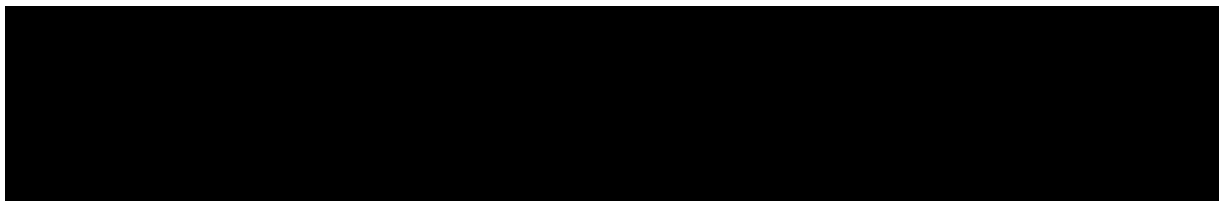
Response to No. 10: Undisputed.

11. The Plaintiff-Kim agency relationship ended on March 25, 2014. (Doniger Ex. 39; Doniger Ex. 24 (3/24/2014 email from Freeman to Kim stating “I don’t believe Entangled will want Masqued as it is.... So I believe that brings us to a parting of ways.”); Kim Dep. 144:20-144:18; Kim Decl. ¶ 41.) Aside from emailing Plaintiff once to check in, Kim did not have any contact with Plaintiff between March 2014 and April 2021, when Plaintiff contacted Kim asking for a copy of her agency agreement while preparing for this lawsuit. (Kim Decl. ¶¶ 43-44).

Response to No. 11: Disputed. The agency agreement terminated in March of 2014 but the fiduciary duties of an agent, including to maintain client confidences, continued beyond that termination such that the entire “agency relationship” did not end at that time. (See *Am. Fed. Grp.*, 2003 WL 22349673, at *13; *Am. Fed. Grp., Ltd. v. Rothenberg*, 136 F.3d 897, 914 (2d Cir.1998); (Doniger Ex. 39). Moreover, the above statement that “[a]side from emailing Plaintiff once, to check in, Kim did not have any contact with Plaintiff between March 2014 and April 2021” is incorrect. Freeman spoke with Kim over the phone, emailed her, and sent her at least one version of BMR after

Kim stopped acting as her agent in March of 2014. (Suppl. Freeman Decl., ¶ 8). Kim and Freeman exchanged a series of emails with each other between May 29, 2015 and June 1, 2015. Among other things, the email string contains the following exchange: On May 29, 2015, Kim writes “[y]ou have been on my mind and I wanted to write and see how things are going with you. I so love your writing and am wishing you all the best!” On the same day Freeman writes in part, “I’ve been thinking about you too, as I’m getting ready for the SB Writer’s Conference June 7. . . . I’ve written a new story, using parts of Masqued that I loved, and a completely different mythology with Egyptian gods. . .! Not quite done but very close.” On June 1, 2015, Kim responds by writing “Sounds intriguing! Please keep me posted! I’d love to read the finished product! And have fun at the conference.” On June 2, 2015, Lynne then replies ‘Thanks! Will do. I’ll be in touch:)’ (Suppl. Freeman Decl., ¶ 16 and Ex. 1 thereto. (Kim depo 88 thereto). ***Shortly thereafter, Freeman sent to Kim the manuscript Freeman was referring to in her e-mails. (Freeman Decl. ¶¶5 & 6 and Ex. 15 thereto; Suppl. Freeman Decl., ¶17).***

12. Defendant Macmillan is the distributor of the Crave series. _____



(Pelletier Depo. 17:21 – 19:17 & 30:7 – 31:18, true and correct copies of which are attached to the Passin Decl., ¶ 5 and Ex. 4 thereto); (Wolff Dep. 13:11-12, a true and correct copy of which is attached to the Passin Decl., ¶ 4 and Ex. 3 thereto); (Tzetzso Dep. 15:20 – 18:1, true and correct copies of which are attached to the declaration of Passin, ¶ 7 and Ex. 6 thereto); (Doniger Decl, ¶ 67 and Exh. 66, ¶1(c) thereto).

13. Defendant Universal, a film studio, has licensed certain rights in a film adaptation of *Crave* from Entangled. (Loveall Dep. 18:13-19:8.)

Response to No. 13: Undisputed.

14. Neither Macmillan nor Universal was involved in creating or writing the Crave series. (Tzetzio Dep. 98:19-24; Loveall Dep. 51:20-23.)

Response to No. 14: Undisputed.

B. The Crave Series And *BMR*

15. The Crave series currently consists of six published novels—*Crave*, *Crush*, *Covet*, *Court*, *Charm*, and *Cherish*. (Wolff Dep. 99:6-9.)

Response to No. 15: Undisputed.

16. Only the first four books of the series—*Crave*, *Crush*, *Covet*, and *Court*—are presently at issue in this litigation. (First Amended Complaint (“FAC,” ECF No. 24) at ¶¶ 1, 8, 39, 44; *see also Crave, Crush, Covet, Court* (Cole Exs. A-D).)

Response to No. 16: Undisputed.

17. Wolff wrote *Crave* from roughly April/May 2019 to December 2019/January 2020. Wolff wrote *Crush* from roughly February 2020 to Summer 2020. Wolff wrote *Covet* from roughly Summer 2020 to December 2020. Wolff wrote *Court* from roughly February 2021 to October 2021. (Wolff Decl. ¶¶ 18-21.)

Response to No. 17: Disputed. The above dates are inconsistent with Wolff’s deposition testimony. When asked at her deposition when she started and finished writing each of the books, she did not have the detailed recollection as stated in her declaration. She testified that she “honestly cannot give you exact dates.” (Wolff depo. 67:23, a true and correct copy of which is attached to the Passin Decl., ¶ 4 and Ex. 3 thereto); She testified

at her deposition “I believe with *Crave*, they contacted me in late April, so I believe I probably started writing in May. I believe it took a couple of months. I know that it didn’t get edited until December, I believe. I think it was – it was November or December. It was – it was in the wintertime and that required more writing as well. *Crush* I believe was a couple of months. I believe I was – I don’t know when exactly. I do believe I was writing it in June, and I only remember that because my dog died. *Covet* was over Thanksgiving, so some time in the Fall. *Court*, *Court* was Summer, and I remember that because my partner got COVID in August when I was writing *Court*.” (Wolff Depo. 67:23 – 68:11, true and correct copies of which are attached to the Passin Decl., ¶ 4 and Ex. 3 thereto).

18. *Crave* was published in April 2020. *Crush* was published in September 2020. *Covet* was published in March 2021. *Court* was published in February 2022. (Wolff Dep. 11:20-12:2; Wolff Decl. ¶¶ 18-21; *see also Crave; Crush; Covet; Court.*)

Response to No. 18: Undisputed.

19. *Crave*, *Crush*, *Covet*, and *Court* are respectively 571, 684, 680, and 689 pages, totaling 2,624 pages; they are respectively 167,792; 208,223; 241,710; and 261,376 words, totaling 879,101 words. (*See Crave; Crush; Covet; Court.*)

Response to No 19: Undisputed.

20. *Crave* is often described as “Harry Potter meets Twilight,” in that it melds the magical, boarding school elements of Harry Potter with the vampire romance made popular by the Twilight series. (Cole Ex. AA (Easton Rep.) at 15-16); Pelletier Dep. 99: (12-25); Pelletier Decl. ¶ 7; *see also, e.g., Court* at Praise for Tracy Wolff’s *Crave* Series (“Twilight in Hogwarts

with dragons.”” – books_and_crafts on *Crush*”, “Twilight meets Harry Potter meets CW Drama.’ – Heybiancaj on *Crave*”).)

Response to No. 20: Disputed. The above citations do not support the alleged material fact. The pages of the Easton report cited merely contain a description of books within the YA Paranormal Romance genre and include brief descriptions of the Harry Potter and Twilight books. (Cole Decl., Ex. AA (Easton Rep.) at 15- 16); Pelletier merely testified at her deposition that her idea for the book that she wanted to have written “was to take Twilight meets Harry Potter and put those two together.” She made that statement before *Crave* was ever written. (Pelletier Depo. 99:17-18, a true and correct copy of which is attached to the Passin Decl., ¶ 5 and Ex. 4 thereto); Similarly, in her declaration Pelletier merely repeats the foregoing that prior to Wolff writing *Crave* Pelletier “came up with the idea for a Harry Potter meets Twilight” series.” (Pelletier Decl. ¶7). The quotes from “Praise for Tracy Wolff’s *Crave* Series” are inadmissible hearsay posts on “Book Tok” by unidentified third parties which do not establish how *Crave* is “commonly” described. And the post by “book and_crafts” is about *Crush* and not *Crave* while the second quote from “Book Tok” posted by someone identified as “Heybiancaj” does not describe *Crave* as “Harry Potter meets Twilight.” (*Court* at Praise for Tracy Wolff’s *Crave* Series, cited by Defs’ in No. 20 above).

21. The *Crave* series and *BMR* are Young Adult (YA) Paranormal Romance books. (Pl.’s Mem. at 8; Easton Rep. at 24; Pelletier Dep. 13:17-21; Baer Dep. 31:13-16.)

Response to No. 21: Undisputed.

22. YA books, including the Crave series and *BMR*, are written at a 12-to-18-year-old reading level. (Abrams Dep. 30:13-17); Easton Rep. at 13-14; Easton Rebuttal Rep. at 1; Baer Dep. 31:2-12.)

Response to No. 22: Undisputed.

23. *BMR* was revised around 50 times. (Pl.'s Mem. at 1.)

Response to No. 23: Undisputed for purposes of this motion.

24. The three *BMR* manuscripts (each entitled *Masqued*) included as Exhibits 15, 16, and 21 to the Freeman Declaration were all created after the Freeman-Kim relationship ended in March 2014. Specifically: (1) the manuscript that is Freeman Ex. 15 was created on October 10, 2016 (Cole Decl. ¶ 18 & Ex. P); the manuscript that is Freeman Ex. 16 was created on July 20, 2014 (Cole Decl. ¶ 19 & Ex. Q); and the manuscript that is Freeman Ex. 21 was created on July 20, 2014 (Cole Decl. ¶ 20 & Ex. R).

Response to No. 24: Disputed. Ex. 15 to the Freeman Decl. is the pdf copy of the manuscript filed with the U.S. Copyright Office. (Freeman Decl., ¶ 5); (Suppl. Freeman Decl., ¶15). When registering a work online with the U.S. Copyright Office, you are required to file a pdf version of the work. (Suppl. Freeman Decl., ¶ 9). Ex. 15, which is a reworking by Freeman of her 2014 version of *Masqued*, incorporates Egyptian mythology. (Suppl. Freeman Decl. ¶15); (Freeman Depo. 256:19 - 257:9, true and correct copies of which are attached to the Passin Decl., ¶ 2 and Ex. 1 thereto). Freeman created it as a new version in 2015. *Id.* Freeman was in the process of creating that reworking at the time of her email exchange with Kim between May 29, 2015 and June 1, 2015, and referenced the same in that exchange. (Suppl. Freeman Decl., ¶16 and Ex. 1 thereto); (Freeman Depo. 256:19 - 257:9, true and correct copies of which are attached to the

Passin Decl., ¶ 2 and Ex. 1 thereto). Among other things, the email string contains the following exchange: On May 29, 2015, Kim writes “[y]ou have been on my mind and I wanted to write and see how things are going with you. I so love your writing and am wishing you all the best!” (Suppl. Freeman, Decl. at ¶16 & Ex.1 thereto). On the same day Freeman writes in part, “I’ve been thinking about you too, as I’m getting ready for the SB Writer’s Conference June 7. . . . I’ve written a new story, using parts of *Masqued* that I loved, and a completely different mythology with Egyptian gods...! Not quite done but very close.” (*Id.*) Although Freeman did not mention it in the email, she intended to submit the 2015 Version of *Masqued* to the SB Writer’s Conference. (*Id.*) On June 1, 2015, Kim responds by writing “Sounds intriguing! Please keep me posted! I’d love to read the finished product! And have fun at the conference.” (Suppl. Freeman Decl., ¶16 & Ex. 1 thereto). On June 2, 2015, Freeman then replies ‘Thanks! Will do. I’ll be in touch .’ (*Id.*). Shortly thereafter, Freeman completed that reworking. (*Id.*) And as she indicated she would, she provided a copy of that manuscript, which is substantially Exhibit 15, to Kim. (Freeman Decl. ¶¶5 & 6 and Ex. 15 thereto); (Suppl. Freeman Decl., ¶16 & Ex. 1 thereto); (Freeman Depo. 256:19 - 257:9, 258:10-21, true and correct copies of which are attached to the Passin Decl., ¶ 2 and Ex. 1 thereto). The reason that the Word version of Ex. 15 has both an October 10, 2016 created and modified date in the metadata fields is because Freeman saved it using the “saved as” command (as opposed to the “save” command) on her computer in 2016. (Suppl. Freeman Decl., ¶18); (Freeman Depo, 258:10 - 21, true and correct copies of which are attached to the Passin Decl., ¶ 2 and Ex. 1 thereto). Although Freeman may have made some substantive changes or modifications to that manuscript after sending it to Kim in 2015, the language in Ex. 15

that she alleges was infringed by Defendants was in the version she sent to Kim in 2015. (Suppl. Freeman Decl., ¶18). Freeman also believes that the majority of the changes she made after sending the manuscript to Kim would have been cosmetic, such as correcting typographical errors or modifying the format.(*Id.*) Also, it is obvious that Wolff had a copy of Ex. 15 when she wrote the Crave series due to the number of story and character details contained in those books that are also contained in Ex. 15. (Decl. of Reiss, ¶¶2-12); (Decl. of Chaski, ¶¶2-11).

Ex. 16 to the Freeman Decl. is the pdf copy of the manuscript filed with the U.S. Copyright Office. (Freeman Decl., ¶¶ 5 & 7); (Suppl. Freeman Decl., ¶ 9). The manuscript reflected in Ex. 16 was created and sent to Kim prior to the termination of he agency relationship with Kim on March 25, 2014. (Suppl. Freeman Decl., ¶10). On March 25, 2014, Freeman sent an email to Kim stating that “I don’t believe Entangled will want *Masqued* as it is.... So I believe that brings us to a parting of ways.” (Doniger Decl., ¶25 and Ex. 24 thereto). As Freeman testified at her deposition, Kim told her that Stacy Abrams (“Abrams”) of Entangled Publishing LLC (“Entangled”) liked the 2013 version of *Masqued* that Kim sent her in October 2013, but there were certain changes that had to be made for Abrams to be interested in seeing it again. (Freeman Depo., 326:14-24; 327:3-19; 328:7-329:13, true and correct copies of which are attached to the Passin Decl., ¶ 2 and Ex. 1 thereto); (Suppl. Freeman Decl., ¶10). Kim and Freeman discussed revising the manuscript based on what Abrams told her. (*Id.*). Freeman then started revising the manuscript over the 2013 Christmas break to incorporate the changes that Abrams wanted and shortly thereafter (prior to March 25, 2014) sent the revised manuscript to Kim to submit to Abrams. (*Id.*) That manuscript was Ex. 16. (Suppl.

Freeman Decl., ¶10). It is Freeman’s understanding that Kim then gave Ex. 16 to Abrams. (*Id.* at ¶11). That is also the version that Freeman asked Kim to withdraw from submission to Entangled when she terminated her agency relationship with Kim in March of 2014. (*Id.*). Freeman believes the Word version of Exhibit 16 has a July 20, 2014 created date in the metadata field because she saved it using the “save as” command (as opposed to the “save” command) on her computer, apparently on July 20, 2014. (*Id.* at ¶12). But the content of that manuscript is what she created in late 2013 and early 2014. (*Id.* at ¶12). Freeman did not make any significant substantive changes to the Word version of Ex. 16 between the time she sent it to Kim and October 18, 2014, the modified date that appears in the metadata field. (*Id.* at ¶13). Most likely the “created” and “modified” dates reflect Freeman having made some cosmetic changes, such as correcting typographical errors or modifying the format, and “saving as” over the old versions. (*Id.* at ¶13). Regardless, the changes Freeman made are not part of what she claims has been infringed by the Defendants. Freeman knows the manuscript was created and sent to Kim prior to her terminating her agency relationship with Kim for a couple of reasons. (*Id.* at ¶14). First, she recognizes it as the version she revised based on Abrams comments and what Kim told Freeman in late 2013. (*Id.*). Second, she recognizes it as the version she took with her to the writer’s conference a few weeks prior to terminating her agency relationship with Kim. (*Id.* at ¶14).

Ex.21 to the Freeman Decl. is the pdf copy of the manuscript filed with the U.S. Copyright Office. (Freeman Decl., ¶¶ 5 & 7); (Suppl. Freeman Decl., ¶ 20). Ex. 21 was also created and sent to Kim prior to March 25, 2014. (Suppl. Freeman Decl., ¶20). The reason that the Word version of Ex. 21 has a July 20, 2014 created and modified date in

the metadata fields is because Freeman also saved that manuscript using the “save as,” command (as opposed to the “save” command) on her computer, apparently on July 20, 2014. (*Id.* at ¶20). Freeman did not make any substantive changes or modifications to that manuscript between the time she sent a copy of the manuscript to Kim and July 20, 2014. (*Id.* at ¶20). Any changes would have been clearly cosmetic, such as correcting typographical errors or modifying the format. (*Id.* at ¶ 20). The manuscript is not one of the six (6) needed for comparison to prove the infringement and is not necessary for plaintiff’s infringement claims. .

With respect to Exs. 15, 16 and 21, they all have created dates later than when Freeman sent the respective manuscript to Kim because Freeman used the “saved as” command (as opposed to the “save” command) on her computer to preserve the documents. (Suppl. Freeman Decl. ¶¶12, 18 & 20). When Freeman saves a document on her computer using the “save as” command (as opposed to the “save” command) it creates a new file, and the created date in the metadata field of the new file is the date the file was saved using the “save as” function. (Kaplan, Decl., ¶6). Freeman sometimes kept previous versions of *BMR*, saving them using the “save” command on her computer and sometimes saved over them by using the “save as” command on her computer. (Freeman Suppl. Decl., ¶13).

During Freeman and Kim’s agency relationship, Freeman sent Kim approximately 50 versions of *BMR*, along with notes and emails which are all part of the same continuous body of work, including, but not limited to, the manuscripts and notes registered with the United States Copyright Office, which included Exs. 15, 16 and 21. (Pl’s Rule 56.1 Statement ¶¶1, 2 & 17 and the evidence cited therein); (Freeman Decl., ¶¶5 & 6 and

Exs.1 through 30 and 50 thereto.) Freeman is the sole author of all the foregoing manuscripts and notes registered with the U.S. Copyright Office. (Freeman Decl., ¶5 and Ex. 50 thereto). Kim admits receiving 10-15 versions of the manuscripts, along with numerous accompanying notes. (Pl’s Rule 56.1 Statement, ¶18 and the evidence cited therein). She also acknowledges that she may not still have all her e-mails and that e-mails in her sent file folder may have been deleted prior to being archived, and that older versions of Freeman’s manuscripts may have been deleted when she received new ones. *Id.* It is obvious that Wolff had copies of Exs. 15 and 16 when she wrote the Crave series due to the number of plot and character details contained in those books that are also contained in Exs. 15 and 16. (Reiss Decl., ¶¶2-12); (Chaski Decl., ¶¶ 2-11).

Defendants have produced, at least one document, that has a metadata date that is later than the document was created apparently because they saved that document using a “save as” command. Defendants claim that the draft of *Tempest Rising* was completed by June 30, 2010, and an Advanced Reader copy of *Tempest Rising*, based on the draft completed by June 30, 2010, was printed in October 2010. The book was published in May 2011. (Def’s Rule 56.1 Statement, ¶¶25, 26 & 28 and the evidence cited therein). On March 4, 2011, Kim sent Wolff an e-mail stating “Justin (my film agent) is excited to see *Tempest*. Can you send me your most recent e-copy. (Passin Decl., ¶ 11 and Ex.10 thereto). On March 4, 2011, Wolff responded “Wow – that was quick :) Thanks. Emily!!!! Here’s the copy.” (*Id.*). The copy Wolff sent to Kim was produced by Wolff bates numbered Wolff 0012495. (Passin Decl., ¶12 and Ex.11 thereto.). It has a metadata created date of March 5, 2011. (*Id.*). Based on when *Tempest Rising* was completed and published according to Defendants, Wolff obviously took an

earlier version of *Tempest Rising* and saved over it using a “save as” command or some similar function which created a new created date. (Id.). Plaintiff does not know why the manuscript is dated March 5, 2011 and the e-mail on March 4, 2011. The foregoing demonstrates that you cannot always rely on the metadata created date to determine the actual created date of a document.

C. *Tempest Rising*

25. Wolff is the author of the YA book *Tempest Rising*, which was published by Bloomsbury Publishing Inc in May 2011. (Abrams Dep. 108:11-13, 110:23-111:2; Hard Drives Order (ECF No. 180) at 2.)

Response to No. 25: Undisputed.

26. Wolff’s draft of *Tempest Rising* was completed by June 30, 2010. (Hard Drives Order (ECF No. 180) at 4-5; Easton Rep. at 3 (explaining personal involvement with publishing *Tempest Rising* at Bloomsbury); Wolff Decl. ¶ 6.)

Response to No. 26: Disputed and irrelevant to both Plaintiff’s Motion for Summary Judgment and Defendants’ Motions for Summary Judgment. First, Defendants cannot support the alleged material fact by citing the discussion section of an Order issued by United States Magistrate Judge Netburn, in which she ruled that Plaintiff had not met her heavy burden to justify Plaintiff’s motion (“Discovery Motion”) to, among other things, require Defendants’ to “produce (1) relevant hard drives of the computers Defendant Tracy Deebs-Elkenaney (“Wolff”) used to create and send two e-mails; (2) in native format, all other electronically stored information defendants previously produced, including all e-mail and the received side of one of the two emails; and (3) access to

Defendant's e-mail accounts." (Hard Drives Order (ECF No. 180) at 1 & 4-5). Defendants also cannot support the alleged material fact by relying on an unsworn statement made by an alleged percipient witness set forth in an expert report prepared by that percipient witness on behalf of Defendants, especially when she states her recollection is based on part on e-mails supplied to her by Defendants' counsel. Second, the following facts demonstrate that Wolff did not complete *Tempest Rising* by June 30, 2010: On or about December 2010, Defendant Kim asked Plaintiff what is the "coolest kind of Ducati' motorcycle. (Declaration of Freeman Submitted in Support of Plaintiff's Discovery Motion, ¶3, ECF 168). Since the romantic lead in BMR rides a Ducati motorcycle, Freeman told Kim a "Ducati streetfighter S." (*Id.*) Kim then asked Freman for permission to use "Ducati Streetfighter S" in another writer's book. (*Id.* at ¶4.) That writer was Defendant Wolff. (*Id.*) "Ducati Streetfighter S" is the motorcycle the romantic lead rides in Wolff's first YA novel *Tempest Rising*, published in May 2011. (*Id.* at ¶5). The reference to "Ducatti Streetfighter S" was, according to Defendants, allegedly in Wolff's June 30, 2010, draft of *Tempest Rising*. *Id.* at ¶6. If *Tempest Rising* was completed by June 30, 2010, Kim would not have asked Freeman permission to use "Ducati Streetfighter S" in Wolff's book. *Id.* at ¶¶3-7. Also, Wolff's *Tempest Rising* was originally entitled *Rip Tide*, then *Tempest* and ultimately *Tempest Rising*. (Plaintiff's Letter dated February 22, 2023 ("Plaintiff's February 22, 2023 Letter"), from Mark D. Passin to the Honorable Sarah Netburn (ECF 131) filed in support of Plaintiff's Discovery Motion. Wolff first announced the title *Tempest Rising* on her blog on November 13, 2010, a true and correct copy of which is attached to the Passin Decl., ¶ 14 and Ex.13 thereto); Why didn't she announce it three months earlier if the name was

already *Tempest Rising* in the manuscript? Plaintiff expects Defendants in their reply papers in support of Defendants' Motion for Summary Judgment to argue, among other things, that Wolff's draft of *Tempest Rising* was completed by June 30, 2010, because on August 25, 2010, Wolff e-mailed a copy of the draft containing the reference to a "Ducati Streetfighter S" to shelleeroberts@yahoo.com (Shellee Roberts ("Roberts"), an author and close friend of Wolff's, who is also published by Defendant Entangled). (Plaintiff's February 22, 2023 Letter ECF 131). However, Plaintiff's had a computer forensics expert examine the e-mail and draft manuscript and concluded that they were suspicious and may be backdated. (See February 22, 2023 Letter ECF 131 and the Declaration of Kevin Cohen submitted in support of Plaintiff's Discovery Motion ECF 169). Magistrate Judge Netburn denied Plaintiff's Discovery Motion so Plaintiff was not allowed to obtain additional evidence in support of her position that the e-mail and draft of *Tempest Rising* may have been backdated.

Lastly, Plaintiff objects to this material fact because the court ruled based on Defendants' objection that Plaintiff could not take any written discovery regarding other books written by Wolff or published by Entangled. (Transcript of December 12, 2022, hearing before Magistrate Judge Netburn, 29:9 – 33:9 a true and correct copy of which is attached to the Passin Decl., ¶13 and Ex. 12 thereto.). If there had not been such a prohibition, plaintiff would have sought production of all the drafts of *Tempest Rising*, as well as other books of Freeman to determine if Wolff used elements of Freeman's in her other books. Under the circumstances it would be unfair for Defendants to use *Tempest Rising* in support of their case when Plaintiff is not allowed to use the books written by Wolff other than the

Crave series to support their case. (“Objection based on the December 12, 2022 Ruling”).

Accordingly, Plaintiff hereby moves to strike paragraph 26.

27. Plaintiff had not sent Kim any *BMR*-related materials as of June 30, 2010. (Hard Drives Order at 2 (“Plaintiff alleges in her motion that she sent Kim the first three chapters of her work *Blue Moon Rising* on October 27, 2010. There is no evidentiary support for this allegation, and Freeman does not assert it in her sworn declaration.”); *see also* Baer Dep. 177:2-9 (“Q. And you personally have not seen any documents showing that your wife sent her a writing sample in October 2010; correct? A. No. Q. Have you seen any documents showing that your wife sent Kim her entire novel on November 17, 2010? A. No.”))

Response to No. 27: Partially undisputed and partially disputed. Plaintiff admits that she had not sent Kim any BMR-related material as of June 30, 2010. Plaintiff disputes that there is no evidentiary support for Plaintiff’s argument made in her discovery motion that she sent Kim the first three chapters of her work *Blue Moon Rising* on October 27, 2010. Kim testified at her deposition that Freeman submitted a manuscript to her in late 2010. (Kim Depo., 57:24 – 58:8, true and correct copies of which are attached to the Passin Decl., ¶ 6 and Ex 5 thereto). When Kim was asked at her deposition if Freeman first sent her a writing sample and then asked for three chapters, she responded by testifying “Again, I do not recall. But it is my practice that an author send me three chapters and then the full manuscript upon request.” (Kim Depo., 62:12-16, true and correct copies of which are attached to the Passin Decl., ¶ 6 and Ex. 5 thereto). On November 17, 2010, Kim sent Freeman an e-mail stating, among other things, “Thank you for your recent submission, *BLUE MOON RISING*, to Prospect Agency. I’d be pleased to consider your complete manuscript. Please send it via email as a word

document and I will get back to you as soon as I can. (Kim Depo., 57:15 - 58:10 and Ex. 91 thereto, true and correct copies of which are attached as the Passin Decl., ¶¶ 6 & 15, Ex. 5 & 14 thereto); At her deposition, Kim also testified that it appears that Freeman and her discussed rewrites in early December, after reviewing an e-mail from Freeman dated January 3, 2011 in which she stated, among other things, that “I am expecting to complete the re-writes we discussed in December early this week.” (Kim Depo., 65:11 – 67:5 and Ex. 92 thereto, a true and correct copies of which are attached to the Passin Decl., ¶¶ 6 & 16, & Exs. 5 & 15 thereto). In her declaration, Kim testified that “[i]n 2010, Freeman approached Prospect Agency seeking representation. While we no longer have records of this, our practice at the time was to have authors submit three chapters of a manuscript for review, and if we liked the sample, we would ask to see the full manuscripts. I have no doubt that we followed the same process with Freeman, because documents produced in discovery show that on November 17, 2010, I asked Freeman to send us her full manuscript. (Kim Decl., ¶13 and the Doniger Decl., ¶41 and Ex. 40 attached thereto.); Freeman testified that she submitted a writing sample to Kim on October 2, 2010. (Freeman Depo., 219:7 – 220:23, true and correct copies of which are attached to the Passin Decl., ¶ 2 and Ex. 1 thereto). Freeman states in her Suppl. Decl. that she sent the first three chapters of BMR to Kim on or about October 27, 2010. (Suppl. Freeman Decl., ¶3).

28. An advanced reader copy (ARC) of *Tempest Rising*, based on the draft that was completed by June 30, 2010, was printed in October 2010. (Easton Rep. at 3; Hard Drives Order (ECF No. 180) at 1-2; Cole Ex. X (the June 30, 2010 draft used for the ARC).)

Response to No. 28: Disputed. (*See* Pl’s Response to Nos. 26 & 27 and the evidence cited therein). Also, Defendants have failed to present any evidence authenticating that Ex. X to the Cole declaration is the advance reader copy or a sworn statement supporting the alleged material fact. Accordingly, Ex. X to the Cole declaration is inadmissible. Plaintiff hereby incorporates by reference as though fully stated herein her Objection based on the December 12, 2022 Ruling. Accordingly, Plaintiff hereby moves to strike paragraph 28.

29. The October 2010 ARC of *Tempest Rising* includes mention of a Ducati Streetfighter motorcycle. (Cole Ex. X (*Tempest* 6/30/10 draft/ARC) at p. 111; March 3, 2023 Wolff Decl. (ECF No. 150) ¶¶ 13-14; *see also* Wolff Decl. ¶ 6.)

Response to No. 29: Partially undisputed and partially disputed. Plaintiff admits that Ex. X mentions a Ducati Streetfighter, but Defendants have failed to authenticate that Ex. X to the Cole declaration is the advanced reader copy. Accordingly, Ex. X to the Cole declaration is inadmissible. Moreover, Plaintiff hereby incorporates by reference as though fully stated herein her Objection based on the December 12, 2022 Ruling. Accordingly, Plaintiff hereby moves to strike paragraph 29.

30. Baer admitted that all alleged similarities in Plaintiff’s *Tempest* List identifying 56 purportedly similar phrases appearing in *Tempest* and BMR, as well as various alleged plot and character similarities, “have to just be coincidences.” (Baer Dep. 184:7-220; (*See also* Pl.’s *Tempest* List (ECF No. 103-2) at 11-26.)

Response to No. 30: Disputed. Baer was merely asked a hypothetical question in which he was told to assume that Wolff completed *Tempest Rising* in 2010. (Baer Dep. 184:12-22, a true and correct copy of which is attached to the Passin Decl., ¶ 3 and Ex. 2

thereto). Plaintiff hereby incorporates by reference as though fully stated herein her Objection based on the December 12, 2022 Ruling. Accordingly, Plaintiff hereby moves to strike paragraph 30.

D. Unprotected Ideas

31. Other books in the YA Paranormal Romance genre—including books published before *BMR* was written—have utilized at least the following character, storyline, and setting components:

- **Protagonist:** is supernatural; initially thinks she is a normal human; has supernatural family; death of parents; lives with surrogate parents; is a teenager; moves/is new in town; doesn't feel attractive or special; experiences anxiety, depression, or panic attacks; loves books/is a good student; is the "chosen one" (special power or prophecy); must choose between Light/Dark or bring balance; has prophetic dreams/visions; powers are hidden/bound for safety; "kicks butt"; saves love interest's life; has "hot guy" friend, sometimes gay; is kidnapped; is attacked by supernatural creatures.
- **Romantic lead:** has model-like looks; is "bad boy with a good heart"; is powerful supernatural creature; heroine meets him right away; has instant connection with heroine; heroine and he have initial aversion/annoyance but end up falling in love; heroine and he are soul mates or "bonded"; heroine and he are conflicted by attraction; breaks heroine's heart to save her; heroine and he profess love; heroine and he share epic kiss; rescues heroine or vice versa; has dark secrets; dangerous for heroine to be with him.
- **Setting:** remote setting; supernatural school; public school with supernatural students; Gothic architecture/castle setting; cold/dark setting for vampires or other paranormals.
- **Other paranormal romance:** supernatural creatures (vampires, werewolves, witches, etc.); love triangle; rival houses/supernatural war; choosing light or dark, good and evil, or restoring "balance"; secret organization of supernatural creatures; secret sanctuary location; mythology/fairy tale roots; magical guide or mentor; entering other realms; objects of power and magic; vengeance for death of loved one; magical creatures forbidden to mix; vortexes,

portals, or similar magical travel devices; time freezing, dream sequences, or similar time-displacement devices; elusive magical artifacts.

(Easton Rep. at 5-8, 16-49; Freeman Dep. 55:2-69:1, 71:20-76:15; Pelletier Decl. ¶¶ 4, 8; *see also* Defendants’ Request for Judicial Notice (“Defs.’ Notice Req.”) at 1-2 (advising that Court may take judicial notice of all published prior third-party works).

Response No. 31: Partially undisputed and partially disputed. The alleged material fact is ambiguous. Plaintiff does not know if Defendants are asking if other books in the genre utilize all or just some of the abstract conventions listed by Defendants. Plaintiff admits that other books in the YA Paranormal Romance genre have some of the broad conventions listed above in them. However, Plaintiff is not aware of any one book that has all or a substantial number of the listed elements other than the Crave series and BMR.. (Suppl. Freeman Dec., 21); (Reiss Expert Report, ¶¶10-27, attached as Exhibit 36 to the Doniger Decl.). Plaintiff also asserts that the alleged supporting evidence – a general reference to third-party books cited in the opening and rebuttal expert reports by Emily Easton without citing a specific book and relevant page numbers – is insufficient to support this fact, especially because Plaintiff has no way of knowing what published third-party books the court deems relevant. (Defs’ Notice of Req. at 1-2). And judicial notice pursuant to Fed. Rule Evid. 201(c)(2) of these books is inappropriate since (1) Defendants have not supplied these books, (2) what is in the books is not generally known within the trial court’s territorial jurisdiction and cannot readily be determined from sources whose accuracy cannot reasonably be questioned, and (3) the interpretation of what is said in a book is subject to dispute. Plaintiff hereby moves to strike Paragraph 31. (This entire paragraph shall hereinafter be referred to as “Objection to use of Third-Party Books.”).

32. Other vampire books, including books published by Entangled, have been set in Alaska. (Pelletier Dep. 65:10-25; Wolff Dep. 36:8-37:2 (“I do know that one of my favorite vampire novels ever was in Alaska. It’s – and I always thought that was a very cool setting for vampires. Q. And which novel was that? A. Dancing in the dark by Sherrilyn Kenyon.”); Pelletier Decl. ¶ 8; Defs.’ Notice Req. at 1-2.).

Response to No. 32: Disputed. The citations do not support the material fact. Pelletier was only able to name one vampire book set in Alaska. (Pelletier Dep. 65:10-25, a true and correct copy of which is attached to the Passin Decl., ¶ 5 and Ex. 4 thereto); (Pelletier Decl., ¶ 8). And that one book, “Dancing in the Dark” by Sherrilyn Kenyon, does not exist as Kenyon has not published a book entitled “Dancing in the Dark.” (Wolff Dep. 36:8 – 37:2, true and correct copies of which are attached to the Passin Decl., ¶ 4 and Ex. 3 thereto). Plaintiff further incorporates by reference as though fully stated herein her Objection to use of third-party Books and Objection based on the December 12, 2022 Ruling and moves to strike paragraph 32.

33. Other books, including books published by Entangled, have featured a heroine who moved to Alaska from southern California. (Pelletier Dep. 65:7-25 (discussing *Wild in Captivity* by Samantha Beck (Entangled, 2021)); Pelletier Decl. ¶ 8; Defs.’ Notice Req.).

Response to No. 33: Disputed. One book from another genre with a heroine who moved from Southern California to Alaska is not “other books.” Plaintiff further incorporates by reference as though fully stated herein her Objection to use of third-party Books and Objection based on the December 12, 2022 Ruling and moves to strike paragraph 33.

34. Other books have featured a search for elusive magical artifacts, including *Harry Potter and the Half-blood Prince* (2005) (horcruxes), *Harry Potter and the Deathly Hallows* (2007) (horcruxes and deathly hallows), *City of Bones* (2007) (search for “mortal instruments”); *Shadow and Bone* (2013) (search for “amplifiers”); and *Children of Blood and Bone* (2018) (search for sacred objects to perform a ritual). (Easton Rep. at 8, 19, 49; Defs.’ Notice Req. at 1-2.) The search for artifacts goes back to Greek myth (the Golden Fleece) and Arthurian legend (the Holy Grail), and has been used in popular series like *Lord of the Rings* and *Raiders of the Lost Ark*. (*Id.*)

Response to No. 34: Disputed. The citations do not support the material fact. (Easton Rep. at 8, 19, 49). Also, Plaintiff hereby incorporates by reference her Objection to use of third-party Books and moves to strike paragraph 34.

35. Other books, TV shows, movies, and video games have named characters and/or weapons the “Bloodletter.” (Pelletier Dep. 109:11-18 (Q. And how did you come up with that name? A. I play a lot of video games and it was a weapon in a video game.’); Easton Rebuttal Rep. at 5 (“Many other books have used it, including J.R. Ward’s best-selling vampire series *Black Dagger Brotherhood*, specifically in book 5, *Lover Unbound* (published 2007), *The Bloodletter’s Daughter: A Novel of Old Bohemia* by Linda Lafferty (2012), *Bloodletter (Star Trek: Deep Space Nine)* by K.W. Jeter (2000), and *Bloodletter* by Warren Newton Beath (1994).”); Defs.’ Notice Req. at 1-2.)

Response to No. 35: Partially undisputed and partially disputed. None of the citations support that TV shows or movies have named characters “Bloodletter.” (Pelletier Dep. 109:11-18, cited in Def’s No. 35 above); (Easton Rebuttal Rep. at 5, cited in Defs’ No. 35

above); Plaintiff incorporates by reference as though fully stated herein her Objections to use of third-party Books and moves to strike paragraph 35.

36. Wolff's pre-*BMR* book *Tempest Rising* featured a heroine "from [San Diego] California who thinks she's human but discovers she is supernatural"; a heroine who "comes into her powers on her 17th birthday and will shift to her supernatural form"; a heroine with a strange growing rash on her neck, a voice inside her head, magical tattoos; a love interest who rides a Ducati Streetfighter S motorcycle; and is the balance in a battle between good and evil and the only one who can stop it. (Tempest List at 11; Wolff Decl. ¶¶ 6, 9, 18(a); *see generally* Cole Ex. X (*Tempest* 6/30/10 draft/ARC).)

Response to No. 36: Plaintiff hereby incorporates by reference as though fully stated herein her Objection based on the December 12, 2022 Ruling and moves to strike paragraph 36.

37. Wolff has used San Diego in multiple books, such as the Ethan Frost series and the Shaken Dirty series, both bestsellers. (Wolff Decl. ¶ 18(a); *see generally* Cole Ex. X (*Tempest* 6/30/10 draft/ARC); *see also* Defs.' Notice Req. at 1-2.)

Response to No. 37: Plaintiff incorporates by reference her Objections to use of third-party Books and Objection based on the December 12, 2022 Ruling and moves to strike paragraph 37.

38. Plaintiff did not invent numerous ideas and phrases allegedly stolen by Defendants, including the phrase "well well well. Looks like"; describing "a male romantic lead as gorgeous, beautiful, and hot"; describing Alaska as "freezing cold in the winter"; and referring to "civil twilight in Alaska"; and "a fight scene with a group of guys where the hero comes to save the protagonist." (Freeman Dep. 151:16-20 ("Q. Do you think it's copyright infringement if

two books describe a male romantic lead as gorgeous, beautiful, and hot? A. No.”), 164:24-165:1 (“Q. Is describing Alaska as freezing cold in the winter copyright infringement? A. No.”), 169:18-21 (“Q. So if two writings refer to civil twilight in Alaska, is that considered copyright infringement? A. No.”), 309:5-8 (“Q. Do[es] both [*BMR* and *Twilight*] have a fight scene with a group of guys where the hero comes to save the protagonist? A. Yes.”); Baer Dep. 47:14-16 (Q. [...] Lynne Freeman didn’t create the phrase ‘Well, well, well. Looks like’; right? A. No.”.)

Response to No. 38: Undisputed in part and disputed in part. This is an argument masquerading as facts. Freeman admits she did not invent the above language, descriptive words, or ideas.

39. The idea of naming a supernatural refuge the “Sanctuary” was used in the 2009 novel *Bad Moon Rising* by bestselling author Sherrilyn Kenyon. (Easton Rep. at 22; Defs.’ Notice Req. at 1-2.)

Response to No. 39: Plaintiff hereby incorporates by reference as though fully stated herein Plaintiff’s Objections to use of third-party Books and moves to strike paragraph 39.

40. The idea of naming a “chosen one” character the “Nyx” was used in the 2007 novel *Marked* by P.C. and Kristin Cast. (Easton Rep. at 18-19; Defs.’ Notice Req. at 1-2.)

Response to No. 40: Plaintiff hereby incorporates by reference her Objection to use of third-party Books and moves to strike paragraph 40.

41. The idea of a dead relative speaking to a protagonist in her head has been used in many fictional works, including Star Wars (Obi-wan Kenobi, Yoda, and Anakin speaking to Luke). (Defs.’ Notice Req. at 1-2.) The idea of a character hearing a voice in her head goes as far back as the Bible. (Wolff Decl. ¶ 9; Defs.’ Notice Req. at 1-2.)

Response to No. 41: Undisputed.

42. The idea of going through vortexes and/or portals has been used in many fictional works, including the 2007 YA paranormal romance novel *City of Bones* by Cassandra Clare, and in Harry Potter (the Pensieve). (Easton Rep. at 19, 46; Defs.’ Notice Req. at 1-2.)

Response to No. 42: Disputed. The citations to Easton’s Report do not support the use of this idea in “many fictional works.” Also, Plaintiff hereby incorporates by reference her Objection to use of third-party Books and moves to strike paragraph 42.

43. At Stacy Abrams’ deposition, Plaintiff’s counsel was not familiar with the character Professor Snape from Harry Potter (referred to by counsel as “Snap”) and conceded: “I guess it shows that I -- I don’t know Harry Potter.” (Abrams Dep. 130:3-11.)

Response to No. 43: Plaintiff objects on the grounds that the alleged material fact is irrelevant. Also, an unsworn statement made by counsel at a deposition cannot be used to support a material fact. Accordingly, Plaintiff hereby moves to strike paragraph 43.

44. Baer, who has himself been falsely accused of wrongdoing, agreed that sometimes allegations of wrongdoing turn out to be false upon investigation of the facts. (Baer Dep. 192:21-24.)

Response to No. 44: Undisputed..

45. Dr. Chaski admitted that her opinions do not address substantial similarity. (Chaski Dep. (Cole Ex. EE) 20:16-21:24 (“Q. My question is, is substantial similarity an issue that you are offering an opinion on? ... [objection] ... A. I don’t think my report addresses substantial similarity in terms of ... estimating how an average reader would read these books.”).

Response to No. 45: Disputed. First, Plaintiff’s counsel objected to the question. (Chaski Depo. 21:2 – 19, a true and correct copy of which is attached to the Passin Decl.,

¶ 9 and Ex. 8 thereto). Second, Chaski testified that she did not understand the term “substantial similarity.” (*Id.* at 20:12-15). Third, the answer given by Chaski that defendants are relying on for the alleged material fact does not support it. Chaski merely stated “I don’t think my report addresses substantial similarity in terms of the – of – as I understand it now, Mr. Halperin, in terms of estimating how an average reader would read these books.” (*Id.* at 20:23 – 21:24). Lastly, Chaski also testified that “I am offering statistical expectation with regard to similarities.” (*Id.* at 20:5-11.).

46. The longest shared sequence Dr. Juola found upon investigating the parties’ works is “on my arms and the back of my neck.” (Juola Rep. (Doniger Ex. 37) ¶ 19.)

Response to No. 46: Undisputed.

47. Dr. Juola conceded that the phrase “on my arms and the back of my neck” is not evidence of plagiarism. Dr. Juola applied a methodology that requires finding shared sequences at least seven words long. (Juola Rep. ¶¶ 17-20.) Dr. Juola conceded that because “on my arms and the back of my neck” includes the common expression “the back of my neck,” it only qualifies as a five-word sequence. (Juola Dep. (Cole Ex. DD) 114:9-116:1.)

Response to No. 47: Disputed. Joula did not concede that the phrase “on the back of my neck” is not evidence of plagiarism and the citation used by Defendants does not support that alleged material fact. In fact, in the above pages cited from Dr. Joula’s report, Dr. Joula concludes based on “on my arms and the back of my neck” and the other word-for-word overlaps he found “that it is more likely than not that the these phrases come from a common source and that that source is unlikely to be a publicly accessible document.” (Juola Rep. ¶¶ 17 - 20, a true and correct copy of which is attached as Ex. 37 to the Declaration of Doniger.). Moreover, Dr. Joula testified at his deposition that you do

not need seven word-for-word overlaps to conclude that the phrases come from a common source. He testified that “any overlap of any length is evidential, it just becomes stronger and stronger and stronger evidence the longer that it is.” (Joula Depo., 73:18-21, a true and correct copy of which is attached to the Passin Decl., ¶ 10 and Ex. 9 thereto). He also stated in his report that the phrases that the works have in common even, if they were only five-word and six-word overlaps, “further confirm this improbability even if they do not Using Coulthard's methodology.” (Juola Rep. ¶ 20, attached as Ex. 37 to the Decl. of Doniger.).

48. The final pages of *BMR 2013* contain 89 words of dialogue copied verbatim from the television show *Roswell*. (Coulthard Rep. (Cole Ex. Z) ¶¶ 33-37.)

Response to No. 48: Undisputed, but irrelevant to any material fact. The alleged fact is also inadmissible hearsay because Defendants fail to cite the manuscript as evidence and instead rely on Coulthard's hearsay statements. Moreover, Dr. Coulthard in his report acknowledges that *BMR 2013* is merely an unpublished draft and he assumes that the 89 word sequence would have been deleted in a subsequent editing and publication process. (Coulthard Rep. ¶ 36, cited in Def's No. 48 above.) Lastly, the 89 words were not intended to be part of the manuscript. (Supp. Freeman Decl., ¶22). The quote was merely a note for Kim written at the end of the Manuscript. *Id.* The forgoing is evidenced by Freeman writing in italics the word voiceover prior to the quote and also putting the entire quote in italics. *Id.*

E. Plaintiff's Theory of Access

49. During the roughly three years Kim represented Plaintiff as her literary agent, Plaintiff sent Kim an estimated 10-15 drafts of *BMR*. (Kim Dep. 58:15-25; Kim Decl. ¶ 45; Kim Decl. ¶ 45.)

Response to No. 49: Disputed. During Freeman and Kim's agency relationship, Freeman sent Kim approximately 50 versions of *BMR*, along with notes and emails which are all part of the same continuous body of work, including, but not limited to, all of the manuscripts and notes registered by Freeman with the United States Copyright Office. (See Pl's 56.1 Statement, ¶¶ 1, 17 & 18 and the evidence cited therein).

50. The last draft of *BMR* Kim received from Plaintiff was in July 2013. (Kim Decl. ¶ 35, Ex. 26; Kim Decl. ¶ 45.) The last time Kim reviewed any draft of *BMR* was October 2013 at the latest. (Kim Decl. ¶ 4.)

Response to No. 50: Disputed. Freeman sent drafts of *BMR* to Kim after July 2013. Freeman sent Kim drafts of *BMR* between July 2013 and approximately June, 2015, including, but not limited to Exs. 15, 16 and 21 to the Freeman Declaration. (See the evidence cited in Pl's Response to Def's Rule 56.1 Statement, ¶24 above); (See Pl's 56.1 Statement, ¶¶ 1, 17 & 18 and the evidence cited therein); (Suppl. Freeman Decl., ¶ 6). Kim reviewed drafts of *BMR* after October 13, 2013, including, but not limited to Exs. 15 & 16, as evidenced by, among other things, the similarities between the Crave series and *BMR*, Kim's involvement in the drafting of the Crave series and the evidence proving that Kim, Wolff, Pelletier and Abrams, who were all good friends, had access to the various versions of *BMR* through Kim, who undoubtedly read them before supplying them to Wolff. (See Pl's 56.1 Statement, ¶¶ 1, 2, 16, 17, 18, 19, 23, 24, 30, 32 - 43, 45, 48 - 100, 104 -181 and all of the evidence cited therein); (Chaski Report, attached as Ex. 35 to the

Doniger Decl.);(Juola Report, attached as Ex. 37 to the Doniger Decl.);(Reiss Report attached as Ex. 36 to the Doniger Decl.);(Plaintiff's Indices, attached as Exs. 32 & 36 - 45 to the Freeman Decl.); (Reiss Decl., ¶¶2-12.);(Chaski Dec., ¶¶2-11).

51. During the time she represented Plaintiff from December 2010 until March 2014, Kim received up to twenty queries or pitches a day and additionally read widely for enjoyment. (Kim Decl. ¶ 17.)

Response to No. 51: Undisputed.

52. On October 10, 2013, Kim sent a 297-word pitch email regarding *BMR* (then titled *Masqued*) to Pelletier's Entangled email address, at Plaintiff's direction. (Doniger Ex. 21; Kim Dep. 137:2-14; Kim Decl. ¶¶ 37-38.) Only 224 words of the pitch email address *BMR*'s plot—the rest of the email contains greetings and a brief summary of Freeman's biography. (Doniger Ex. 21; Kim Decl. ¶ 38; Pelletier Decl. ¶ 13.)

Response to No. 52: Partially undisputed and partially disputed. Plaintiff admits the entire statement other than that Kim sent the October 10, 2013 email to Pelletier at Freeman's direction. Nothing in the evidence cited supports that statement. (Doniger Ex. 21); (Kim Dep. 137:2-14, cited by Def's above.); (Kim Decl. ¶¶ 37-38.) Moreover, Plaintiff expressly denies that Kim sent the 297-word pitch email to Pelletier at her direction. Kim sent it to Kim on her own volition. (Supp. Freeman Decl., ¶ 5).

53. The *BMR* (*Masqued*) manuscript itself was not attached to Kim's Oct. 10, 2013 pitch email, which closes with the phrase "I'd love to send you the full manuscript." (Doniger Ex. 21 at 3; Kim Decl. ¶ 38.)

Response to No. 53: Undisputed.

54. Pelletier was closed to acquisitions when Kim sent the Oct. 10, 2013 *BMR* pitch. (Doniger Ex. 21; Abrams Dep. 81:4-15; Pelletier Dep. 81:9-18.) Pelletier forwarded the pitch email, without comment, to Abrams, who replied to Kim confirming that Pelletier was “closed to submissions.” (Doniger Ex. 21; Abrams Dep. 81:4-15; Pelletier Dep. 81:9-18; Pelletier Decl. ¶ 13; Kim Decl. ¶ 38.)

Response to No. 54: Undisputed.

55. Pelletier does not recall ever reading the October 2013 *BMR* pitch email. (Pelletier Dep. 80:1-16, 80:25-81:8; Pelletier Decl. ¶ 13.)

Response to No. 55: Undisputed for purposes of this motion.

56. On October 30, 2013, Kim sent one version of *BMR* (the *Masqued* version mentioned in the pitch email) directly to Abrams. (Doniger Ex. 21 at 1.)

Response to No. 56: Undisputed.

57. Abrams, who typically receives between 5 and 20 manuscripts every day, does not believe that she ever read the *BMR* manuscript Kim sent her in October 2013. (Abrams Dep. 90:10-93:8.) Abrams did not give Pelletier a copy of the manuscript or talk to her about it. (Abrams Dep. 174:17-18 (never gave a “copy of *Masqued* to anyone”), 174:24-175:3 (same as to Pelletier), 175:24-176:2 (never “discuss[ed] *Masqued* with Liz Pelletier); Pelletier Decl. ¶ 13.)

Response to No. 57: Disputed. Abrams did read the *BMR* manuscript and she gave Pelletier a copy of the manuscript or talked to her about it, evidenced by, among other things, the similarities between the Crave series and *BMR*, Abrams and Pelletier’s involvement in the drafting of the Crave series and the evidence proving that Pelletier, who is good friends with Abrams, had access to the various versions of *BMR* Freeman sent to Kim. (See Pl’s 56.1 Statement, ¶¶ 1, 17, 18, 19, 23, 24, 30, 32 - 43, 45, 48 - 100,

104 -181 and all of the evidence cited therein); (Reiss Decl., ¶¶2-12.);(Chaski Decl., ¶2-11).

58. *BMR* was rejected by over 20 book publishers. (Kim Decl. ¶¶ 2, 26-27, 30-32, 37-39; Kim Exs. 8-12, 14-15, 28-33 (rejection letters).)

Response to No. 58: Undisputed.

59. After the efforts to publish *BMR* proved unsuccessful, Plaintiff and Kim amicably ended their relationship in March 2014. (Doniger Ex. 24; Kim Dep. 144:16-18; Kim Decl. ¶ 41.)

Response to No. 59: Disputed. The email that Freeman sent to Kim on March 25 merely terminated the agency agreement between them. The termination of the agency Agreement did not terminate the relationship between Kim and Freeman. Kim states in her declaration that “[o]n March 25, 2014, Freeman wrote to me terminating our author-agent relationship. . . . [t]he termination of our agency relationship was entirely amicable.” (Kim Decl., ¶41); (Doniger Ex. 39).

60. As part of this, Plaintiff asked Kim to withdraw *BMR* from Entangled, and Kim did so. (Kim Decl. ¶ 41; Doniger Ex. 24).

Response to No. 60: Partially undisputed and partially disputed. Plaintiff admits that she asked Kim to withdraw *BMR* from Entangled. However, Defendants have cited no evidence that proves that Kim ever did so. In her declaration, Kim states that she asked her assistant to withdraw the manuscript from Entangled. (Kim Decl. ¶ 41); In an email, the assistant writes to Kim that there is a draft of a withdrawal in Kim’s drafts. (Doniger Ex. 24).

61. Neither Kim nor Abrams ever shared a copy of *BMR* with Wolff. (Kim Dep. 159:6-8 (never gave “a copy or any of the contents of [*BMR*] to Tracy Wolff”), 159:20-21 (never

“discuss[ed] [*BMR*] with Tracy Wolff”); Abrams Dep. 174:17-175:3 (never gave “a copy of [*BMR*] to anyone” including Wolff or Pelletier), 175:22-177:1 (never “discuss[ed] [*BMR*]” with Wolff or Pelletier); 178:7-11 (similar); Kim Decl. ¶ 46; Wolff Dep. 188:23-190:12 (“No one has ever sent [Wolff] any portion of [*BMR*]”); Wolff Decl. ¶¶ 3, 17.)

Response to No. 61: Disputed. Kim and Abrams shared copies of *BMR* with Wolff including, but not limited to Exs. 15 & 16, evidenced by, among other things, the similarities between the Crave series and *BMR*, Wolff’s involvement in the drafting of the Crave series and the evidence proving that Wolff, who is good friends with Kim, Pelletier and Abrams, had access to the various versions of *BMR* Freeman sent to Kim. (See Pl’s 56.1 Statement, ¶¶1, 17, 18, 19, 23, 24, 30, 32 - 43, 45, 48 - 100, 104 -181 and the evidence cited therein); (Reiss Decl., ¶¶ 2-12);(Chaski Decl., ¶¶2-11).

62. Neither Kim nor Abrams ever shared a copy of *BMR* with Pelletier. (Kim Dep. 158:18-159:5 (never gave “a copy of any of the contents of [*BMR*] to Liz Pelletier”), 159:9-19 (never “discuss[ed] [*BMR*] with Liz Pelletier” and the submission to Abrams was “all of the communications we had about that book”), 159:22-24 (never “discussed [*BMR*] with Stacy Abrams or anyone else at Entangled”), 160:4-14 (never “orally or in writing provided any language from [*BMR*] to Liz Pelletier” or “Stacy Abrams or anyone else at Entangled” aside from the initial submission to Abrams and never “discuss[ed] Lynne Freeman with Liz Pelletier”), 160:18-20 (same as to Abrams aside from the initial submission); Abrams Dep. 174:17-18 (never gave a “copy of [*BMR*] to anyone”), 174:24-175:3 (same as to Pelletier), 175:24-176:2 (never “discuss[ed] [*BMR*] with Liz Pelletier”), 176:9-177:1 (never “discuss[ed] Lynne Freeman with anyone” including Wolff or Pelletier), 178:7-11 (similar); Kim Decl. ¶ 46.)

Response to No. 62: Disputed. Kim and Abrams shared copies of *BMR* with Pelletier, including, but not limited to Exs. 15 & 16, evidenced by, among other things, the similarities between the Crave series and *BMR*, Pelletier’s involvement in the drafting of the Crave series and the evidence proving that Pelletier, who is good friends with Kim, Wolff and Abrams, had access to the various versions of *BMR* Freeman sent to Kim . (See the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above).

63. Neither Kim nor Abrams ever discussed *BMR* or its contents with Wolff prior to this litigation. (Kim Dep. 159:6-8 (never gave “a copy or any of the contents of [*BMR*] to Tracy Wolff”), 159:20-21 (never “discuss[ed] [*BMR*] with Tracy Wolff”), 159:25-160:3 (never “orally or in writing provided any language from [*BMR*] to Tracy Wolff”), 160:15-17 (never “discuss[ed] Lynne Freeman with Tracy Wolff”); Abrams Dep. 102:7-12 (never discussed *BMR* with Wolff), 175:22-23 (same), 176:9-15 (never “discuss[ed] Lynne Freeman with anyone”), 176:16-18 (same as to Wolff); Wolff Dep. 35:2-6 (“first heard” of *BMR* upon receiving Plaintiff’s “demand letter” in February 2022), 189:1-190:9 (no one ever “sent” or “communicated to” Wolff “language from [*BMR*]” and Wolff never “discussed any of the contents of [*BMR*] with Kim... Pelletier...Abrams...or anyone”) ; Kim Decl. ¶ 46; Wolff Decl. ¶¶ 3, 17.)

Response to No. 63: Disputed. Kim and Abrams discussed *BMR* or its contents with Wolff including, but not limited to Exs. 15 & 16, prior to this litigation, evidenced by, among other things, the similarities between the Crave series and *BMR*, Wolff’s involvement in the drafting of the Crave series and the evidence proving that Wolff, who is good friends with Kim, Pelletier and Abrams, had access to the various versions of *BMR* Freeman sent to Kim. (See the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above and the evidence cited therein).

64. Neither Kim nor Abrams ever discussed *BMR* or its contents with Pelletier prior to this litigation. (Pelletier Dep. 85:11-19 (never discussed *BMR* or its contents with “Stacy Abrams or anyone else”), 90:9-13 (same as to *BMR* and Freeman), 110:20-111:17 (same as to Kim and Wolff); Kim Dep. 158:18-159:5 (never gave “a copy of any of the contents of [*BMR*] to Liz Pelletier”), 159:9-19 (never “discuss[ed] [*BMR*] with Liz Pelletier” and never sent Abrams [*BMR*] outside of the original submission to her), 159:22-24 (never “discussed [*BMR*] with Stacy Abrams or anyone else at Entangled”), 160:4-14 (never “orally or in writing provided any language from [*BMR*] to Liz Pelletier” or “Stacy Abrams or anyone else at Entangled” aside from the initial submission to Abrams and never “discuss[ed] Lynne Freeman with Liz Pelletier”), 160:18-20 (same as to Abrams aside from the initial submission); Abrams Dep. 102:13-20 (never “discuss[ed] [*BMR*]” with Pelletier), 175:24-176:2 (never “discuss[ed] [*BMR*] with Liz Pelletier”), 176:9-15 (never “discuss[ed] Lynne Freeman with anyone”), 176:19-177:1 (never “discuss[ed] Lynne Freeman with anyone” including Wolff or Pelletier); Kim Decl. ¶ 46; Pelletier Decl. ¶ 2.)

Response to No. 64: Disputed. In Fact 52 (above) Defendants admit that Kim provided both a pitch re *BMR* and information to Pelletier about Freeman while Kim was representing Freeman. (See Def’s Rule 56.1 Statement, ¶52 above). Thus, Kim discussed *BMR* and its contents with Pelletier prior to the litigation. And the fact that they discussed *BMR* and its contents prior to this litigation is also evidenced by, among other things, the similarities between the Crave series and *BMR*, Pelletier’s involvement in the drafting of the Crave series and the evidence proving that Pelletier, who is good friends with Kim, Wolff and Abrams, had access to the various versions of *BMR* Freeman sent to Kim. (See the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above).

65. Pelletier and Wolff never discussed Plaintiff or *BMR* or its contents with one another (prior to this litigation). (Pelletier Dep. 90:4-8 (never “discuss[ed] [*BMR*]” or “Freeman” with Wolff), 110:20-23 (never discussed *BMR* with “Tracy Wolff” or “anyone”), 111:6-11 (same as to discussing Freeman); Wolff Dep., 189:14-16 (“Q. Have you ever discussed any of the contents of [*BMR*] with Liz Pelletier? A. I have not.”), 189:20-22 (same as to “with anyone”), 190:1-3 (never “discussed any of the language [of *BMR*] with Liz Pelletier”), 190:7-12 (same as to “with anyone”); Pelletier Decl. ¶ 2; Wolff Decl. ¶¶ 3, 17.)

Response to No. 65: Disputed. Pelletier and Wolff discussed Plaintiff and *BMR* with one another prior to the litigation, including, but not limited to Exs. 15 & 16, evidenced by, among other things, the similarities between the Crave series and *BMR*, Pelletier’s involvement in the drafting of the Crave series and the evidence proving that Pelletier, who is good friends with Kim, Wolff and Abrams, had access to the various versions of *BMR* Freeman sent to Kim. (See the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above and the evidence cited therein).

66. Entangled has always maintained virtual offices, meaning there is no physical depository where hard copies of manuscripts submitted to Entangled for consideration would be stored and could be accessed by company-wide employees. (Pelletier Dep. 87:19-24, 97:5-10; Pelletier Decl. ¶ 15.)

Response to No. 66: Disputed. Entangled had a portal for submission of manuscripts that obviously could be accessed by company wide employees. (Kim Depo., 62:17-21, true and correct copies of which are attached to the Passin Decl., ¶ 6 and Exhibit 5 thereto).

67. Wolff has never been in possession of a complete or partial copy of *BMR*. (Wolff Dep. 188:23-189:10 (“No one has ever sent me any portion of [*BMR*].”; “No one has [ever] sent

me any language from [BMR]”), 190:10-12 (“Q. Have you ever had in your possession a partial or a complete copy of [BMR]? A. I have not.”); Wolff Decl. ¶¶ 3, 17.)

Response to No. 67: Disputed. Wolff has been in possession of complete or partial copies of various versions of *BMR*, including, but not limited to Exs. 15 & 16, evidenced by, among other things, the similarities between the Crave series and *BMR*, Wolff’s involvement in the drafting of the Crave series and the evidence proving that Wolff, who is good friends with Kim, Pelletier and Abrams, had access to the various versions of *BMR* Freeman sent to Kim. (See the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above).

68. Wolff has never read any portion of *BMR*. (Wolff Dep. 35:23-36:2 (never read any part of *BMR* and first heard of it with demand letter), 188:19-22 (“I have never read any portion of [BMR]”); Wolff Decl. ¶¶ 3, 17.)

Response to No. 68: Disputed. Wolff has read various versions of *BMR*, including, but not limited to Exs. 15 & 16, evidenced by, among other things, the similarities between the Crave series and *BMR*, Wolff’s involvement in the drafting of the Crave series and the evidence proving that Wolff, who is good friends with Kim, Pelletier and Abrams, had access to the various versions of *BMR* Freeman sent to Kim. (See the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above).

69. Pelletier has never been in possession of a complete or partial copy of *BMR*. (Pelletier Dep. 83:20-25 (Abrams did not send Pelletier a copy of *BMR*), 110:8-19 (never gave “a copy of [BMR]” to or “discuss[ed] [BMR]” with anyone including Wolff, Abrams, and Kim); Pelletier Decl. ¶ 2; see also Doniger Ex. 26.)

Response to No. 69: Disputed. Pelletier has been in possession of complete or partial copies of various versions of *BMR*, including, but not limited to Exs. 15 & 16, evidenced by, among other things, the similarities between the Crave series and *BMR*, Pelletier's involvement in the drafting of the Crave series and the evidence proving that Pelletier, who is good friends with Kim, Wolff and Abrams, had access to the various versions of *BMR* Freeman sent to Kim. (See the evidence cited in Pl's Response to Def's Rule 56.1 Statement, ¶ 61 above).

70. Pelletier never read any portion of *BMR*. (Pelletier Dep. 79:10-13 (never "read all or any part of [*BMR*]"); Pelletier Decl. ¶ 2.)

Response to No. 70: Disputed. Pelletier has read various versions of *BMR*, including, but not limited to Exs. 15 & 16, evidenced by, among other things, the similarities between the Crave series and *BMR*, Pelletier's involvement in the drafting of the Crave series and the evidence proving that Wolff, who is good friends with Kim, Pelletier and Abrams, had access to the various versions of *BMR* Freeman sent to Kim. (See the evidence cited in Pl's Response to Def's Rule 56.1 Statement, ¶ 61 above).

71. Neither Wolff nor Pelletier had heard of Freeman or *BMR* before Plaintiff's counsel sent a demand letter to Defendants' counsel in February 2022. (Wolff Dep. 35:2-6 ("first heard" of *BMR* upon receiving Plaintiff's "demand letter" in February 2022), 82:9-83:4 (never met Plaintiff), 176:11-14 (never heard of Plaintiff at the time *Crave* was published in 2020), 190:13-17 (never spoke with Kim about Freeman until Wolff received Plaintiff's demand letter in February 2022); Pelletier Dep. 78:7-79:13 (only learned about Plaintiff and *BMR* in February 2022 when she received Plaintiff's demand letter); Pelletier Decl. ¶ 2; Wolff Decl. ¶¶ 3, 17.)

Response to No. 71: Disputed. In Fact 52 (above) Defendants admit that Kim provided both a pitch re BMR and information to Pelletier about Freeman while Kim was representing Freeman. *See* Def’s Rule 56.1 Statement, ¶52 above). And Wolff met Freeman at a 2012 writer’s convention when they were both represented by Kim and discussed BMR. (*See* Pl’s Response to Defs’ Rule 56.1 Statement, ¶ 75 below). Thus, both Wolff and Pelletier had heard of Freeman and *BMR* before Plaintiff’s counsel sent a demand letter to Defendants’ counsel in February 2022. Further, the similarities between the Crave series and *BMR*, Wolf and Pelletier’s involvement in the drafting of the Crave series, and the evidence that Wolff and Pelletier, who are both good friends with Kim and Abrams, had access to the various versions of *BMR* Freeman sent to Kim further indicate this fact is not true. (*See* the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above).

72. Wolff, Pelletier, Kim, and Abrams never discussed *BMR* with one another prior to this litigation. (Pelletier Dep. 85:11-19 (never discussed *BMR* or its contents with “Stacy Abrams or anyone else”), 90:4-13 (same as to *BMR* and Freeman), 110:8-111:17 (never gave “a copy of [*BMR*]” to or “discuss[ed] [*BMR*]” with anyone including Wolff, Abrams, and Kim); Wolff Dep. 35:2-6 (“first heard” of *BMR* and *Masqued* upon receiving Plaintiff’s “demand letter” in February 2022), 189:4-190:17 (no one, including Kim, Pelletier, or Abrams, ever “communicated to” and Wolff never “discussed any of the contents of [*BMR*]”); Kim Dep. 159:17-160:20 (same as to Kim), Abrams Dep. 175:5-177:1 (same as to Abrams); Kim Decl. ¶¶ with Wolff or Abrams), 110:20-111:17 (same as to Kim and Wolff); *see also id.* 83:5-85:19 46; Wolff Decl. ¶¶ 3, 17; Pelletier Decl. ¶ 2.)

Response to No. 72: Disputed. Defendants admit in Fact 52 (above) that Kim had emailed Pelletier about Freeman and BMR while Kim was representing Freeman. (*See* Pl’s Response to Def’s Rule 56.1 Statement, ¶ 52 and the evidence cited therein). And Kim introduced Wolff to Freeman while representing both of them and Freeman discussed BMR in a car ride in the presence of both Kim and Wolff. (Suppl. Freeman Decl., ¶ 24). Finally, discussions about BMR between Wolff, Pelletier, Kim and Abrams prior to this litigation are evidenced by, among other things, the similarities between the Crave series and *BMR*, Wolff, Pelletier, Kim and Abram’s involvement in the drafting of the Crave series and the evidence proving that Wolff, Pelletier, Kim and Abrams, who are good friends with each other, had access to the various versions of *BMR* Freeman sent to Kim. (*See* the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above).

73. Pelletier never discussed *BMR* or Plaintiff with anyone, including Wolff, Abrams, or Kim, before this litigation. (Pelletier Dep. 90:4-13 (never “discuss[ed] [*BMR*]” or “Freeman” with Wolf or Abrams), 110:20-111:17 (same as Kim and Wolff) *see also id.* 83:5-85:19 (never discussed Kim’s 10/30/2013 email to Abrams with Abrams); Pelletier Decl. ¶ 2; Wolff Decl. ¶¶ 3, 17.)

Response to No. 73: Disputed. Defendants admit in Fact 52 (above) that Kim and Pelletier had emailed about Freeman and BMR while Kim was representing Freeman. (*See* Pl’s Response to Def’s Rule 56.1 Statement, ¶ 52 and the evidence cited therein). And Kim introduced Wolff to Freeman while representing both of them and Freeman discussed BMR in a car ride in the presence of both Kim and Wolff. (*See* Pl’s Response to Defs’ Rule 56.1 Statement, ¶ 75 below). Finally, discussions about BMR between Wolff, Pelletier, Kim and Abrams prior to this litigation are evidenced by, among other

things, the similarities between the Crave series and *BMR*, Wolff, Pelletier, Kim and Abram’s involvement in the drafting of the Crave series and the evidence proving that Wolff, Pelletier, Kim and Abrams, who are good friends with each other, had access to the various versions of *BMR* Freeman sent to Kim. (*See* the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above).

74. Wolff, Pelletier, Kim, and Abrams all testified that no material or ideas from *BMR* were used in any books in the Crave series. (*E.g.*, Pelletier Dep. 89:22-90:13 (no “materials or ideas from [*BMR*]” were used in Crave and never “discuss[ed] [*BMR*]” or “Freeman” with Wolff or Abrams); Wolff Dep. 35:2-36:2 (“first heard” of *BMR* upon receiving Plaintiff’s “demand letter” in February 2022), 176:11-24 (never heard of Plaintiff at the time *Crave* was published in 2020), 188:19-190:17 (“I have never read any portion of [*BMR*]”); Kim Dep. 154:3-10 (no “material or ideas from” *BMR* used in Crave), 158:18-160:20 (never gave “a copy of any of the contents of [*BMR*] to Liz Pelletier”), 159:9-19 (never “discuss[ed] [*BMR*] with Liz Pelletier”, never sent Abrams [*BMR*] outside of the original submission to her, never “discuss[ed] [*BMR*]” or Freeman with or “provided any language from [*BMR*] to” Pelletier, Wolff, or Abrams); Abrams Dep. 99:16-19 (no “material or ideas from *Masqued*” were used in Crave), 101:8-12 (same), 171:18-23 (same); *see also, e.g.*, Wolff Decl. ¶¶ 3, 17; Pelletier Decl. ¶ 2.)

Response to No. 74: Undisputed that they all so testified.

75. Wolff was completely shocked when she received Plaintiff’s February 2022 demand letter since she had never heard of Plaintiff or her manuscript before seeing that letter. (Wolff Dep. 191:14-21 (“I was – honestly, I was in complete shock. I had no idea what manuscript they were referring to. I had no idea of what person they were referring to”); Wolff

Decl. ¶ 3; *see also* Wolff Dep. 193:8-194:9 (“I’ve never copied anything in my life from anybody else”).

Response to No. 75: Disputed. Freeman met Wolff in the summer of 2012, at the Romance Writers of America conference in Anaheim, California. Kim introduced Wolff to Freeman outside the hotel where Kim and Wolff were staying. (Suppl. Freeman Decl., ¶ 24). Kim told Freeman that Wolff was an erotica writer, that she was speaking at the conference, that she was very proud of her, and that they were good friends. She introduced her to Freeman as “Tracy Deebs.” (*Id.*) At Kim’s urging, Freeman attended a talk that Wolff gave at the conference on erotic language in books. (*Id.*) That same morning, Freeman rode with Kim and her other clients, including Wolff, from the hotel to the conference. (*Id.*) During the ride, Kim asked each of her clients to talk about what they were working on or had just completed. (*Id.*) Freeman spoke briefly about *BMR* (*Id.*) During the ride to the conference, Freeman also answered a number of questions asked of her by Kim, such as how Freeman got into writing, how Freeman got the idea for the Freeman Manuscript, what made Freeman decide to write a book and when specifically, Freeman began writing the manuscript, as well as questions about living in Alaska, and what made Freeman set her book in Alaska. (*Id.*) And there is substantial additional evidence that she was familiar with Freeman’s work from, among other things, the similarities between the Crave series and *BMR*, Wolf and Pelletier’s involvement in the drafting of the Crave series and the evidence proving that Wolff and Pelletier, who are both good friends with Kim and Abrams, had access to the various versions of *BMR* Freeman sent to Kim. (See the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above).

76. Defendants collectively produced 41,569 documents in this litigation, including numerous drafts of the Crave books and numerous communications sent while writing and/or editing the Crave books. (*See* Cole Decl. ¶ 21.)

Response to No. 76: Undisputed subject to Plaintiff's objection that the fact is irrelevant and the term "numerous" is vague and ambiguous.

77. None of the drafts of any of the Crave books mention Plaintiff or *BMR*, including in redline edits and comment bubbles. (*See, e.g.,* Cole Exs. S-W (examples of Crave book drafts); *see also e.g.,* Doniger Exs. 13, 19, 28-30.)

Response to No. 77: Undisputed as to the drafts produced, but otherwise disputed as Defendants acknowledge that they have not produced all drafts, Plaintiff believes they have not, and Defendants' cited evidence provides no support for this alleged material fact as to those other versions. (*See e.g.,* Pl's Rule 56.1 Statement, ¶¶ 104 & 105 and the evidence cited therein).

78. None of Defendants' communications sent during the writing and/or editing of the Crave books mentions Plaintiff or *BMR*. (*See e.g.,* Doniger Exs. 5-8, 11-12, 15-18, 20, 22.)

Response to No. 78: Undisputed as to the communications produced, but otherwise disputed as Defendants have not produced the different versions of the Crave books saved in Google Docs or all of the communications sent during the writing and/or editing of the Crave books. (*See e.g.,* Pl's Rule 56.1 Statement, ¶¶ 104 & 105 and the evidence cited therein).

79. Plaintiff did not give Wolff a copy of *BMR* at their alleged meeting at a writing conference in 2012 (Defendants dispute this alleged meeting took place). (*See* Wolff Dep. 82:9-84:14 (never met Plaintiff).)

Response to no. 79: Undisputed.

F. The Actual Genesis of the Crave Series

80. Pelletier came up with the general idea for a book series that would later become the Crave series around April 2019. (Pelletier Dep. 93:11-98:5, 100:11-14; Wolff Dep. 64:15-24, 179:10-25, 180:12-181:17, 183:9-184:10; Doniger Ex. 31; Pelletier Decl. ¶ 7.)

Response to No. 80: Disputed. As Defendants admit in Fact 52, Kim had provided a synopsis of Freeman's BMR to Pelletier years earlier when she was representing Freeman. (*See* Def's Rule 56.1 Statement, ¶ 52).

81. Around that time, Pelletier had read several news articles explaining (1) how consumer trends cycled back around every ten years; (2) that YA sales had dipped because young women were not relating to the way authors had been portraying their heroines; and (3) that *Twilight*, the first book in the YA paranormal romance phenomenon series, was about to be ten years old. (Pelletier Dep. 98:8-100:5 (Pelletier read a news article and thought a "vampire book" would be a "bestseller" because consumer "trends cycle back every ten years", YA sales had dipped because "young girls couldn't relate" to the way authors had been portraying their heroines, and "Twilight was about to be ten years old"); Pelletier Decl. ¶ 7; Wolff Decl. ¶ 14.)

Response to No. 81: Undisputed.

82. These news articles gave Pelletier the idea to bring back vampires in a fun and fresh way that combined the hallmarks of *Twilight* and *Harry Potter* where the protagonist was a "fish out of water" and the fantastical setting was its own character. (*E.g.*, Pelletier Dep. 95:8-21, 98:8-100:5 (article gave Pelletier "the idea of bringing vampires back" in "a fun, fresh way" and wanted "to take *Twilight* meets *Harry Potter* and put those two together," which included

“something fish out of water and fantastical and set someplace that ... would be its own character”), 126:12-24, 129:4-25; Pelletier Decl. ¶ 7.)

Response to No. 82: Disputed. (See Pl’s Rule 56.1 Statement, ¶¶46 & 47 and the evidence cited therein); Abrams testified that she merely told Wolff that Pelletier wanted her to write a book about “an ordinary girl in a super rarefied world.” (Abrams Depo. 115:5 - 117:12 & 119:12 - 121:9), true and correct copies of which are attached to the Passin Decl., ¶ 8 and Ex. 7 thereto);(Abrams Depo., Ex. 9, an email dated April 26, 2019 at 12:52 p.m. from Wolff (under the pen name Deebs) to Abrams, a true and correct copy of which is attached to the Passin Decl., ¶17 and Ex.16 thereto); Wolff testified that Abrams told her that “Liz Pelletier wanted to fill the slot with a paranormal novel because it was time for paranormals, and vampires in particular, to circle back.” (Wolff Decl.,¶14).

83. Pelletier instructed Entangled’s editors, including Abrams, to find an author to write a book in the paranormal genre for Entangled’s teen line. (Pelletier Dep. 92:10-14 (instructed Entangled’s editors, including Abrams to “see if they had any author who wanted to write that series”), 98:8-100:5; Pelletier Decl. ¶ 7.)

Response to No. 83: Undisputed.

84. This occurred when a slot in Entangled’s publishing schedule opened because an unrelated third-party author was unable to complete a project. (Pelletier Dep. 133:14-134:22; Wolff Dep. 64:15-24, 124:20-125:4; Pelletier Decl. ¶ 7.)

Response to No. 84: Undisputed.

85. Abrams thought of and immediately called Wolff because she had previously worked with Wolff and thought she would be a good stylistic fit. (Abrams Dep. 116:18-117:6;

Wolff Dep. 65:11-19, 124:10-19; Pelletier Dep. 92:10:17, 96:3-7; Pelletier Decl. ¶ 7; Wolff Decl. ¶ 14.) Kim was not a part of this. (*E.g.*, Abrams Dep. 116:18-24.)

Response to No. 85: Undisputed.

86. On April 26, 2019, Wolff emailed Abrams with five basic ideas for potential series aligned with Pelletier’s idea, including one for a “Warlock or Vampire boarding school book.” (Doniger Ex. 30 at 3 (Wolff’s email); Ex. 29 (the ideas); *see also, e.g.*, Wolff Decl. ¶ 14.) Another of the ideas featured characters named Hudson and Grace and took place in Alaska. (Doniger Ex. 29 at 2; *see also* Wolff Decl. ¶ 30.)

Response to No. 86: Undisputed.

87. In response to Wolff’s five ideas, Abrams told Wolff that the boarding school idea was the closest idea to what Pelletier was looking for. (Doniger Ex. 30 at 2; Wolff Decl. ¶ 14.)

Response to No. 87: Undisputed.

88. Abrams relayed a number of Pelletier’s further ideas, including needing a compelling and never-done-before reason a vampire (Jaxon) couldn’t be with a human (Grace) and that Grace’s parents’ sudden death in a car wreck was the catalyst for Grace being sent to the boarding school, where her uncle was headmaster. (Doniger Ex. 30 at 2-3.)

Response to No. 88: Undisputed.

89. Wolff worked on the “meet cute” between Jaxon and Grace, which she sent to Abrams and proposed title ideas and rough plot points for what would become *Crave*. (Doniger Ex. 30 (April 27, 2019 email from Wolff to Abrams proposing possible title ideas for what would be named *Crave*); Cole Ex. Y (May 3, 2019 email from Wolff to Abrams and Kim attaching the “meet cute” scene); *see also* Wolff Decl. ¶ 14.)

Response to No. 89: Undisputed, except that neither the names “Jaxon” or “Grace” are mentioned in the meet cute.

90. A “meet cute” is an industry term that means where the two romantic leads meet for the first time. (Abrams Dep. 125:2-6.)

Response to No. 90: Undisputed.

91. On May 7, 2019, Abrams informed Wolff that Pelletier liked her writing sample and wished to move forward with Wolff as the author of what would become *Crave*. (Doniger Ex. 30 at 1; *see also* Pelletier Dep. 107:6-13; Wolff Decl. ¶ 14.)

Response to No. 91: Undisputed.

92. As a general process for the entire series, Wolff wrote and provided drafts and Pelletier edited those drafts. (*E.g.*, Wolff Dep. 179:7-25 (Wolff “wrote the books and turned them over to” Pelletier who edited them), 178:6-7; Pelletier Dep. 112:22-113:15; Kim Dep. 210:10-25; Cole Exs. S-W (examples of *Crave* drafts and them being sent); Wolff Decl. ¶¶ 15, 18-20.)

Response to No. 92: Partially undisputed and partially disputed. Plaintiff admits that Wolff was involved in writing the books and Pelletier edited the books. However, Pelletier, Kim and Abrams were also involved in writing the books in the *Crave* series. (*See* Pl’s Rule 56.1 Statement, ¶¶49 - 89 and the evidence cited therein);(Cole Ex. S);

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

93. Pelletier was the content editor for the Crave series meaning that she edited for big picture issues like story structure and character arcs. (Pelletier Dep. 14:16-18 (Pelletier was the “content editor” of Crave), 16:4-17:20 (as a “content editor” Pelletier edited for big-picture issues like improving story structure and character arcs and consistency); Pelletier Decl. ¶ 14; Wolff Dep. 41:8-9; Abrams Dep. 157:21-158:15.)

Response to No. 93: Undisputed. However, Pelletier was also involved in writing the books in the Crave book series. (*See* Pl’s Response to Defs’ Rule 56.1 Statement, ¶92 and the evidence cited therein).

94. As content editor for the Crave series, Pelletier was generally responsible for reviewing the books; making sure each book’s structure is balanced; that there’s growth in each character arc; that the beats are in the right place meaning that for every action there is a reaction; catching plot holes; fixing any continuity or blocking issues; and making sure characters remain consistent and authentic. (Pelletier Dep. 16:4-17:17; Pelletier Decl. ¶ 14; *see also* Abrams Dep. 158:17-20.)

Response to No. 94: Undisputed. However, Pelletier was also involved in writing the books in the Crave series. (*See* Pl’s Response to Defs’ Rule 56.1 Statement, ¶92 and the evidence cited therein).

95. Abrams was a copy editor for the Crave series, which means editing for things like grammar, spelling, punctuation, and typos. (Abrams Dep. 34:20-35:14, 157:21-158:23,

169:13-170:20 (Abrams “did not make changes to the storylines” and was “looking for typos, grammatical errors, punctuation errors, spelling errors, continuity errors”—“[t]hat’s it.” She was “not involved in the content editing”); Wolff Dep. 180:1-4; Pelletier Dep. 119:20-120:2; Pelletier Decl. ¶ 14; Kim Dep. 169:8-170:4.)

Response to No. 95: Undisputed. However, Abrams was also involved in writing the books in the Crave series. (See Pl’s Rule 56.1 Statement, ¶¶49, 65, 66, 68, 69, 72 and the evidence cited therein).

96. Abrams was not involved in the content editing and did not make any substantive contributions or changes to the storylines in any of the Crave series books. (Abrams Dep. 170:12-171:14 (Abrams “not involved in the content editing” of Crave), 178:23-180:16 (same), 184:21-185:6 (same); 191:14-192:4 (Abrams was “the original sort of conduit between Tracy and Liz” but “[a]fter that [she] was uninvolved until the copy editing stage where [she] was in charge of grammar, sense, punctuation, and collating the entire thing [...] into a master file”); Pelletier Decl. ¶ 14.)

Response to No. 96: Disputed. Abrams was involved in writing and editing the books in the Crave series. (See Pl’s Response to Def’s Rule 56.1 Statement, ¶95 above and the evidence cited therein).

97. Abrams was peripherally involved in early discussions regarding *Crave*, in that she liaised between Pelletier and Wolff while the two were coming up with ideas, but was otherwise not involved besides copy editing. (Abrams Dep. 35:3-14, 191:14-192:4; Wolff Dep. 173:22-174:1.)

Response to No. 97: Partially undisputed and partially disputed. Abrams was directly involved in the early discussions regarding *Crave*. (Doniger Decl., Ex. 30) She also was

involved in writing the books in the Crave series. (*See* Pl’s Response to Def’s Rule 56.1 Statement, ¶95 above and the evidence cited therein).

98. Pelletier also contributed to the synopses (the basic plot plan for a book), plot arcs, subplots, character arcs and development for each book in the Crave series, which she brainstormed and plotted with Wolff. (Pelletier Dep. 75:4-76:8, 111:8-16, 112:22-113:15; Pelletier Decl. ¶ 9; Wolff Dep. 61:17-23, 63:10-15, 64:7-24, 179:10-25 (Wolff and Pelletier “brainstormed and plotted together”), 181:22-182:6, 183:9-184:21, 185:9-13; *see also* Cole Exs. S-W.)

Response to No. 98: Undisputed.

99. Pelletier wrote synopses for all books except *Crave*, which did not have a formal synopsis. (Pelletier Dep. 77:5-78:6, 114:17-20; Pelletier Decl. ¶ 9; *see also* Wolff Dep. 61:9-21, 62:14-18, 63:10-15, 182:7-183:8.)

Response to No. 99: Partially undisputed and partially disputed. Pelletier wrote synopses for all of the books except that Wolff also testified at her deposition that Wolff had written something for Crave. (Wolff Depo., 61:9-19, attached as Ex. G to the Cole Decl.). Wolff also collaborated with Pelletier on the synopsis for *Crush*. (*See* Defe’s Rule 56.1 Statement, ¶100 below).

100. Wolff collaborated with Pelletier on the synopsis for *Crush*. (Pelletier Dep. 115:22-116:8; Pelletier Decl. ¶ 9; Wolff Dep. 184:17-21, 185:9-13.)

Response to No. 100: Undisputed. (*See* Pl’s Response to Def’s Rule 56.1 Statement ¶ 99 above and the citations to evidence therein.)

101. It generally took Wolff several months to initially draft each Crave book. (Wolff Dep. 66:21-68:11 (it took Wolff “a couple of months” to initially write the Crave books); 168:15-21.)

This is relatively slow by Wolff's typical standards, as she can usually write the rest of a novel in two weeks after figuring out world building and characters. (Wolff Decl. ¶ 22.) Wolff then did more writing during the editing process. (Wolff Dep. 66:21-67:3.)

Response to No. 101: Disputed. "Several" is generally understood to mean 3-5, but Wolff testified at her deposition that it took her about two to three months to initially draft each Crave book. (Wolff Depo., 66:21 - 67:9, attached as Ex. G to the Cole Decl.).

102. Because *Crave* was a huge hit with readers and there was a demand for sequels, the printing schedule was "escalated," which pushed up the timelines to publish and edit the rest of the Crave series. (Pelletier Dep. 64:14-19 (because *Crave* "sold so well" the sequels were put on an "escalating [] print schedule"); Pelletier Decl. ¶ 6.)

Response to No. 102: Undisputed.

103. *Court*, the longest of the four Crave books, was particularly challenging to plot, write, and edit because it was intended to be the final book in the series, yet there were too many loose ends that could not all be resolved, resulting in two more books being added to the series. (See Pelletier Dep. 75:4-78:8; Wolff Dep. 181:11-21; Pelletier Decl. ¶ 12.)

Response to 103: Undisputed.

104. *Covet* is the *only* book in the Crave series that mentions Tarot cards, in a single scene where a character who is literally a troll uses a Tarot card to "troll" Grace as a joke. (*Covet* pp. 540; Wolff Dep. 211:16-212:23.)

Response to 104: Undisputed.

105. Pelletier, Wolff, and Kim communicated frequently during the writing and editing process of each book in the Crave series, which is typical when they were in the middle of editing the Crave series. (Pelletier Dep. 60:23-61:16; Pelletier Decl. ¶ 10; Kim Decl. ¶ 65, 69.)

Response to No. 105: Undisputed.

106. Kim did not write or substantively contribute to any of the Crave books. (*E.g.*, Wolff Dep. 47:3-48:7 (Kim “does not edit manuscripts for me” and “does not help me write books”), 57:7-16 (“it is not fair to say [Kim] was involved in editing the books” and Kim “did not make contributions to the story line in the Crave book series” or “contribute to the writing of the Crave book series”); Pelletier Dep. 15:18-20 (denying Kim made “changes to the book herself”), 61:7-9 (Kim would not “text [Pelletier] suggested edits for the book”), 61:24-62:16 (denying Kim made “contributions to the story line” or “contributed to the writing”); Kim Dep. 132:16-132:21 (“Tracy wrote the book, and then Liz edited it”), 166:20-23 (Kim did not “take any part in the writing of any of [the Crave] books”), 133:11-19 (similar), 169:6-7 (not “involved in editing any of the books”); Kim Decl. ¶¶ 61, 65; Pelletier Decl. ¶¶ 10-12, 20-22; Wolff Decl. ¶¶ 23-25, 27-31.)

Response to No. 106: Disputed. Kim substantively contributed to the writing of each of the books in the Crave series. (*See* Pl’s Rule 56.1 Statement, ¶¶ 51 -57, 60, 64 -71, 73, 74, 76 and 80 - 89 and the evidence cited therein).

107. Kim’s role was primarily to be a “cheerleader” and motivator. (Wolff Dep. 57:20-22 (“Emily is an amazing cheerleader.”), 58:11-14 (similar); Pelletier Dep. 62:17-19 (“She was our cheerleader.”); Kim Dep. 166:3-19; Kim Decl. ¶ 65; Wolff Decl. ¶¶ 23-24, 27-29; Pelletier Decl. ¶ 11.)

Response to No. 107: Disputed. Kim was substantively involved in writing each of the books in the Crave series. (*See* Pl’s Response to Defs’ Rule 56.1 Statement, ¶106 above and the evidence cited therein).

108. Kim read the books and would let Abrams or Pelletier know if she noticed any proofreading errors or typos. (Wolff Dep. 47:19-23; Kim Dep. 16:18-23; Kim Decl. ¶ 66; Wolff Decl. ¶ 23.

Response to No. 108: Undisputed that she may have done that. However, Kim was also substantively involved in writing the books in the Crave series. (See Pl's Response to Defs' Rule 56.1 Statement, ¶106 above and the evidence cited therein).

109. Since Pelletier would make a lot of edits to the draft manuscripts that Wolff would not otherwise see before publication, Kim would sometimes read the manuscripts to make sure she did not notice anything she thought Wolff would object to. (Pelletier Dep. 63:7-14; Kim Decl. ¶ 66; Pelletier Decl. ¶ 11.)

Response to No. 109: Undisputed; however, Kim was also involved in writing the books in the Crave series. (See Pl's Response to Defs' Rule 56.1 Statement, ¶106 above and the evidence cited therein).

110. One time that Kim voiced an objection to one of Pelletier's changes was to a single sentence in *Court*, where Kim felt that something she thought Pelletier had written was not in Wolff's voice, but as it turned out this was a line written by Wolff. (Pelletier Dep. 63:15-25; Kim Decl. ¶¶ 66, 70.)

Response to No. 110: Undisputed; however, Kim was also involved in writing the books in the Crave series. (See Pl's Response to Defs' Rule 56.1 Statement, ¶106 above and the evidence cited therein).

111. While Wolff was writing a few particularly challenging scenes in *Court*, Kim joined her in a shared Google Doc to help Wolff stay awake and motivate her. (Doniger Ex. 11 at 4; Wolff

Dep. 25:3-14; Kim Dep. 19:9-11, 30:3-32:5; Wolff Decl. ¶¶ 23-24, 27-29; Kim Decl. ¶¶ 65, 74, 77-79.)

Response to No. 111: Disputed. Kim was actually in Google Doc helping write the book. (See Pl's Response to Defs' Rule 56.1 Statement, ¶106 above and the evidence cited therein).

112. Pelletier relayed comments to Wolff through Kim so as to not interrupt Wolff during Wolff's writing. (Pelletier Decl. ¶ 11; Kim Decl. ¶ 80)

Response to No. 112: Disputed. Kim stated in her declaration that she often helped relay material between Pelletier and Wolff when **they** were writing. She said "For example, if Wolff finished a scene Pelletier needed, I might email it to her. Or if Pelletier had a scene where she wanted Wolff to revise, I would send it along to Wolff. **One reason**, I did this was that **they were very busy writing and editing** and this was an administrative task I could do." (Emphasis Added). (Kim Decl., ¶ 80)

113. Wolff wrote all of the chapter titles for *Crave*, with her son suggesting a few titles. (Wolff Dep. 59:7-11.) Wolff is very possessive of the chapter titles used in Crave series and ultimately decides the names for all chapter titles. (Wolff Dep. 59:23-60:4.) Pelletier suggested several chapter titles for *Crush*, which Wolff did not use. (Wolff Dep. 59:11-13). Kim suggested some of the chapter titles for *Covet*, some of which Wolff took but most of which she did not. (Wolff Dep. 47:16-18; 57:23-58:4; 58:23-60:4; Kim Dep. 166:24-167:14; Kim Decl. ¶ 67.) Lots of people suggested Crave chapter titles to Wolff, including her sons, partner, and best friend. (Wolff Decl. ¶ 25.)

Response to No. 113: Disputed. Wolff admitted that Kim wrote some of the Chapter titles for the Crave book series. (Wolff Depo., 47:16-18 & 57:23 - 58:4, attached as Ex. G to the Cole Decl.).

114. For *Court*, Kim created and kept updated a document with short summaries of each chapter and would sometimes make suggestions for chapter titles to help prompt Wolff's creativity. (Wolff Dep. 58:5-10, 59:16-22; 60:16-20; Kim Dep. 166:24-167:14; 173:15-174:8.)

Response to No. 114: Undisputed.

115. Plaintiff does not allege that the Crave chapter titles infringe *BMR*. (*See generally* FAC; Pl.'s Mem.)

Response to No. 115: Undisputed.

116. In publishing, a "series bible" is a guide used to ensure the books in the series remain consistent in aspects such as character hair and eye color, spelling of names and locations, and any other details provided in earlier books that must be kept consistent when raised in later books. (Abrams Dep. 183:4-10, 188:10-189:2; Kim Dep. 244:7-21 ("[A] bible is the term that we're using in the publishing industry to create -- to sort of archive a world that's created in a fantasy series or a long-running series."); Wolff Dep. 58:5-22, 60:14-20; Kim Decl. ¶ 68; Wolf Decl. ¶ 25.)

Response to No. 116: Undisputed.

117. Kim and Abrams contributed to the Crave series bible, which was used for the purposes described in ¶ 116, *supra*. (Wolff Dep. 58:5-22, 60:14-20; Abrams Dep. 183:4-10; Kim Dep. 167:15-170:4; Kim Decl. ¶ 68.)

Response to No. 117: Undisputed.

118. The Crave series bible has never been published or publicly displayed. (Abrams Dep. 188:20-189:2; Kim Decl. ¶ 68; Wolff Decl. ¶ 25.)

Response to No. 118: Undisputed for purposes of this motion.

119. Plaintiff does not allege that the Crave series bible infringes *BMR*. (*See generally* FAC; Pl.’s Mem.)

Response to No. 119: Undisputed for purposes of this motion that Plaintiff does not allege in this lawsuit that the Crave series bible infringes *BMR*.

120. It was Wolff’s idea to set the Crave series in Alaska. (Wolff Dep. 36:6-7, 37:3-24, 38:15-39:8, 197:5-14; Wolff Decl. ¶¶ 30-31; Pelletier Decl. ¶ 8; Kim Decl. ¶ 71; *see also* Doniger Ex. 29 at 1.)

Response to No. 120: Disputed. It was Kim’s idea to set the Crave series in Alaska. (*See* Pl’s Rule 56.1 Statement, ¶81 and the evidence cited therein); (Entangled 0048568, p.0048568, a true and correct copy of which is attached to the Passin Decl., ¶18 and Ex. 17 thereto).

121. Wolff got the idea to set the Crave series in Alaska from a snowboarding documentary called *The Art of Flight*, wherein a character was walking through the Alaskan wilderness and commenting that no human being ever stepped foot there before. Based on this, Wolff thought to herself that the Alaskan wilderness would be a good place to put paranormals who wanted to stay hidden from ordinary people. (Wolff Dep. 36:8-22, 197:15-198:4 (after seeing a snowboarding documentary that showed the Alaskan wilderness, Wolff thought it was Alaskan wilderness is, making it “a really cool place to set something [featuring] paranormals that didn’t want to be around humans or, like, giant dragons could fly free”); Wolff Decl. ¶ 31; *see also* *Crush* pp. 281 (Grace narrates: “A few years ago, I watched a documentary called *The Art of Flight*. It was

about snowboarding in the most difficult and breathtaking locations in the world, and Denali was one of the places spotlighted in the movie. They took a helicopter up to some of the areas that are off-limits to normal climbers and skiers and made a big deal about walking in places where no other human had ever been.”)

Response to No. 121: Disputed. (See Pl’s Response to Def’s Rule 56.1 Statement, ¶ 120 above, and the evidence cited therein).

122. Wolff was also inspired to set the Crave Series in Alaska by one of her favorite vampire novels, *Dance With The Devil* by Sherrilyn Kenyon, which is set in Alaska. (Wolff Dep. 36:23-37:2 (one of Wolff’s “favorite vampire novels ever” (*Dance With The Devil* by Sherrilyn Kenyon) is set in Alaska), 197:5-14; Wolff Decl. ¶ 30.)

Response to No. 122: Disputed. (See Pl’s Response to Def’s Rule 56.1 Statement, ¶ 120 above, and the evidence cited therein).

123. Additionally, Wolff thought Alaska would fit the “fish out of water” trope that Pelletier was looking for. (Wolff Dep 37:3-24 (Alaska fit Pelletier’s “fish out of water” idea); *see also*, *e.g.*, Pelletier Dep. 95:8-24 (same).)

Response to No. 123: Disputed. (See Pl’s Response to Def’s Rule 56.1 Statement, ¶ 120 above, and the evidence cited therein).

124. Pelletier liked the idea of setting the Crave series in Alaska after having recently returned from a cruise there. (Pelletier Dep. 69:18-23; Pelletier Decl. ¶ 8; Kim Decl. ¶ 71.)

Response to No. 124: Undisputed.

125. It was Pelletier’s idea to name a Crave character “the Bloodletter” based on a video game called Bloodborne that Pelletier played. (Pelletier Dep. 109:11-18; *see also* Wolff Dep. 72:25-16; Wolff Decl. ¶ 16.) Pelletier thought this would be a good name for a character who “sounded

scary” but “looked sweet.” (Wolff Dep. 72:25-73:16 (“Q. And then how did you come up with the Bloodletter? A. That was in the editing process of Crave. Liz told me she wanted a character that sounded really scary but was very sweet. No, that sounded scary but when you looked at her, she looked sweet. Like, she thought, I just want her to be a dichotomy, right? Like, you don’t expect it, but also that she really is scary. And I believe in that, she said she needs to have a scary name like Bloodletter or something.”); Wolff Decl. ¶ 16.) Pelletier also came up with the idea of the heroine’s parents dying in a car crash and her needing to go live with her uncle who is the school dean. (Doniger Ex. 30 at 2-3 (email including this idea).)

Response to No. 125: Plaintiff objects to the alleged material fact on the grounds it is not a short and concise statement as required by Rule 56.1. Subject to the foregoing objection, Plaintiff disputes that it was Pelletier’s idea to name a Crave character “the Bloodletter” based on a video game. The Bloodletter was a character in BMR written by Freeman and Plaintiff contends that Wolff or one of the other Defendants copied the name and character from BMR. Plaintiff also disputes that Pellier came up with the idea of the heroine's parents dying in a car crash and her needing to go live with her uncle who is the school dean. That is also in *BMR* and Plaintiff contends that Pelletier copied that from *BMR*. (See Pl’s 56.1 Statement, ¶¶ 1, 2, 16, 17, 18, 19, 23, 24, 30, 32 - 43, 45, 48 - 100, 104 -181 and all of the evidence cited therein);(Chaski Report, attached as Ex. 35 to the Doniger Decl.);(Juola Report, attached as Ex. 37 to the Doniger Decl.);(Reiss Report, attached as Ex. 36 to the Doniger Decl.);(Plaintiff’s Indices, attached as Exs. 32, & 36-45 to the Freeman Decl.); (Reiss Decl., ¶¶ 2-12);(Chaski Dec., ¶¶2-11). Plaintiff has already supplied uncontroverted evidence that Wolff testified untruthfully about the creation of other elements in the Crave book series and falsely created an elaborate story to try to

justify her independent creation of the element. (*See* Pl’s Response to Def’s Rule 56.1 Statement, ¶¶ 120 -123).

126. Wolff came up with the name “Katmere” as a homage to Harry Potter and the Lion King. Hogwarts in Harry Potter is “warthog” roughly reversed and Katmere is “meerkat” roughly reversed—a warthog and meerkat being a famous duo in the Lion King. (Wolf Decl. ¶ 18(b).)

Response to 126: Disputed. Freeman’s BMR has a refuge for supernatural beings called “Katmai” and in *Crave* the refuge is “Katmere.” Both are remote magical places in Alaska that must be reached by a small plane and where supernatural beings can meet and live together. (*See* Pl’s Rule 56.1 Statement, ¶167 and supporting evidence.) Plaintiff contends that Wolff or one of the other Defendants copied Katmere from the notes Plaintiff gave to Kim describing Katmai, a refuge in Alaska. (*See* Pl’s Response to Def’s Rule 56.1 Statement, ¶125 above and the evidence cited therein.). Moreover, the progression of the changes in the name made in Wolff’s drafts of *Crave* belie her argument that it is Meerkat roughly reversed. In the draft attached as Ex.S to the Cole declaration the school is referred to as “Katsmere” Academy. In Ex.T to the declaration of Cole the school is referred to as ‘Katmeres.’ (Cole Decl., Exs. S & T thereto).

127. Wolff dressed the wolves who threaten Grace at the beginning of *Crave* in 80’s rock t-shirts because one of her favorite students at the time was obsessed with and had been telling her about a Netflix documentary about Motley Crüe. (Wolff Decl. ¶ 18(c).)

Response to 127: Disputed. Wolff dressed the wolves who threatened Grace at the beginning of *Crave* in 80’s rock t-shirts because she copied the first attack scene that appears in BMR. (*See* Pl’s Rule 56.1 Statement, ¶154 and the evidence cited therein). Based on the similarities between the scene in BMR, the corresponding scene in *Crave*

and the evidence established by Plaintiff on access, Wolff clearly copied the scene, including, but not limited to, “dressing the wolves who threaten Grace at the beginning of Crave in 80’s rock t-shirts” from BMR. (*See* re access Pl’s 56.1 Statement, ¶¶1, 17, 18, 19, 23, 24, 30, 32 - 43, 45, 48 - 100, 104 -181 and the evidence cited therein);(Reiss Decl., ¶¶2-12.);(Chaski Decl., ¶¶2-11).

128. “Katmai” is the name of a real national park in Alaska. (*See* Defs.’ Notice Req. at 2 (requesting notice of <https://www.nps.gov/katm/index.htm>).)

Response to No. 128: Undisputed.

129. The name “Grace” and her character came fully formed to Wolff in her head, with Wolff knowing what Grace sounded and looked like. (Wolff Dep. 69:6-70:9.)

Response to 129: Disputed. Wolff got the name for Grace from Kim who was given the name by Freeman. (Freeman Depo., 341:5 - 342:2, a true and correct copy of which are attached the the Passin Decl.; ¶ 2 and Ex. 1 thereto.) Grace is the name of Freeman’s only niece and she asked her brother and sister-in-law’s permission about using that name as the heroine’s name. (*Id.*). Moreover, the heroine in BMR is Anna. Ana means “grace.” (See [https://en.wikipedia.org/wiki/Anna\(name\)](https://en.wikipedia.org/wiki/Anna(name)) (“Anna is a feminine given name, the Latin form of the Greek: Ἀννα and the Hebrew name Hannah... meaning "favour" or "grace"...”). Wolff also got the character Grace and her character traits from BMR. (*See* the Freeman Decl., ¶ 30 and Ex. 38 thereto.). Moreover, the character Grace was one of the many things copied from BMR that were not independently created by Wolff or any of the other Defendants. (*See* the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above).

130. Wolff came up with the name “Jaxon” by researching via Google popular names from the year Jaxon would have been born. (Wolff Dep. 69:6-70:9.)

Response to 130: Disputed. Wolff got the name for Jaxon from Kim who was given the name by Freeman. (Freeman Depo., 341:5 -342:13, a true and correct copies of which are attached to the Passin Decl., ¶ 2 and Ex. 1 thereto.) Jaxon was Freeman’s first dog.(*Id.*). Kim and Freeman discussed that name being used for the romantic lead. (*Id.*). They even discussed the spelling of it being J-A-X-O-N. (*Id.*)

131. Since Jaxon is a vampire, Wolff gave him classic vampire character traits such as being dark and broody and thought about what internal and external conflicts would keep him and Grace apart and Pelletier suggested he have a scar on his face. (Wolff Dep. 70:10-71:3.)

Response to No. 131: Disputed. The character of Jaxon and his character traits were some of the many things copied from BMR that were not independently created by Wolff or any of the other Defendants. (*See* the Freeman Decl., ¶ 31 and Ex. 40 thereto.); (*See also* the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above).

132. Wolff came up with the idea for Hudson’s character as she was writing a scene for *Crave*. (Wolff Dep. 71:7-72:3.)

Response to No. 132: Disputed. The character of Hudson and his character traits were some of the many things copied from BMR that were not independently created by Wolff or any of the other Defendants. (*See* the Freeman Decl., ¶ 36 and Ex. 37 thereto.); (*See also* the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above).

133. Wolff knew Grace could not be a vampire, witch, dragon, or werewolf and after brainstorming with her kids and Pelletier, it was decided that Grace should be a gargoyle. (Wolff Dep. 72:4-24.)

Response to No. 133: Disputed. Freeman gave Kim the idea of the heroine turning into a gargoyle and Kim gave it to Wolff. (Freeman Depo., 176:24- 178:10, 341:5 -22, true and correct copies of which are attached to the Passin Decl., ¶ 2 and Ex. 1 thereto). Freeman had statues of gargoyles all over her writing room and she gave pictures of them to Kim on a thumb drive. (Freeman Depo., 177:23 - 178:10, 259:10 - 261:5, true and correct copies of which are attached to the Passin, Decl., ¶ 2 and Ex. 1 thereto); (Suppl. Freeman Decl., ¶ 23). Moreover, Freeman and Kim talked about the heroine turning into a gargoyle. (Freeman Depo., 341:5-22.)

134. Wolff created the character Flint Montgomery as an homage to her second son, who is tall, half Irish/Egyptian (like Flint), and loves dragons. (Wolff Decl. ¶ 8.)

Response to No. 134: Disputed. The character of Flint Montgomery and his character traits were some of the many things copied from BMR that were not independently created by Wolff or any of the other Defendants. (*See* the Freeman Decl., ¶ 31 and Ex. 40 thereto.); (*See also* the evidence cited in Pl’s Response to Def’s Rule 56.1 Statement, ¶ 61 above). Kim described Freeman's book on the prospect website as involving “strong themes of Celtic and Egyptian mythology . . . set against the backdrop of Alaska. (Suppl. Freeman Decl., ¶ 25 and Ex. 2 thereto.).

G. Additional Facts Relevant to Defendants Kim and Prospect Agency’s State Law Motion

135. Prospect Agency is a small literary agency that specializes in romance, women’s fiction, historical fiction, mysteries, fantasy, and sci-fi, and young adult/children’s literature. Its clients

include *New York Times* best-selling authors and illustrators, and winners of the RITA award (for romance novels). (Kim Decl. ¶ 7.)

Response to No. 135: Undisputed.

136. Over the 18 years since its founding, Prospect Agency has realized a steady and increasing profitability, at least until this lawsuit was filed. (Kim Decl. ¶ 8.)

Response to No. 136: Disputed. Kim provides no competent evidence for this statement,

[REDACTED]

[REDACTED] (Expert Report of Christine

Witthohn, a true and correct copy of which is attached to the Passin Decl., ¶19 and Ex.18 thereto).

137. As a literary agent, Kim varies her approach to working with clients depending on their needs and on the stage of a particular project. With new authors, her role is to assist that author in finding a publisher, and depending on the state of the manuscript, may offer some editorial suggestions or very few suggestions. Once an author has a publisher Kim primarily will be involved in the business details of that relationship but will have little role in the creative process. (Kim Decl. ¶¶ 9-10.)

Response to No. 137: Undisputed for purposes of this motion.

138. Kim co-founded et al Creative, a literary production company that turns editors' prompts into finished books, in 2016, as a new project separate from Prospect Agency. Since its conception, et al Creative has worked with major publishers such as Simon and Schuster, DK Publishing, Hachette, Audible and St. Martin's. Et al Creative has not handled any projects involving Tracy Wolff. (Kim Decl. ¶¶ 11-12.)

Response to No. 138: Undisputed.

139. Freeman approached Kim in late 2010 seeking representation. Freeman indicated that she had strong interest in her manuscript from HarperCollins UK. (FAC ¶ 23; Kim Decl. ¶ 14; Freeman Dep. 39:12-40:16, 43:20-45:7, 212:14-18.) On November 17, 2010, Kim asked Freeman to send her full manuscript for review. (Doniger Ex. 40; Kim Decl. ¶ 14.) On December 8, 2010, Freeman signed the Wolff-Kim Agency Agreement. (*See supra* ¶ 10; Doniger Ex. 39; Kim Decl. ¶ 15.)

Response to No. 139: Undisputed.

140. Neither Kim nor anyone at Prospect made any independent representations or promises to Freeman before the parties signed the Wolff-Kim Agency Agreement, or after signing that agreement. (Kim Decl. ¶ 16.) The Wolff-Kim Agency Agreement includes an integration clause which states that the agreement supersedes and cancels any previous agreements or understandings between the parties, whether written or oral, and requires any future modifications to be in writing. (Doniger Ex. 39 at 3 (Wolff-Kim Agency Agreement).)

Response to No. 140: Disputed. Kim represented to Freeman that the only people Kim would show Freeman's manuscript to were editors at publishing houses and readers. (Freeman Depo., 239:22 - 240:15, a true and correct copy of which is attached to the Passin Dec., ¶ 2 and Ex. 1 thereto). Whether the Wolff-Agency Agreement includes an integration clause and the legal impact of the clause calls for a legal conclusion.

141. Freeman was one among approximately 40 active clients for which Kim was working during the time Freeman was represented by Prospect Agency. (Kim Decl. ¶ 17.)

Response to No. 141: Undisputed.

142. Kim worked with Freeman from December 2010 until March 2014. *See supra* ¶¶ 16-17. Over the first nine months Kim worked with Freeman to bring the *BMR* manuscript into a form

suitable for pitching to book editors, including having multiple readers review the book, some of whom were critical of certain aspects of Freeman's story. (Kim Decl. ¶¶ 20-25, Exs. 5-7.) Kim also provided multiple rounds of editorial suggestions to try to help strengthen the manuscript, as is common in author/agent relationships prior to an author finding a publisher. (Kim Decl. ¶¶ 17-19, 22, Exs. 3-7.) Freeman regularly offered thanks for the time and care Kim was paying to her manuscript, but also sometimes pushed back against changes. (Kim Decl. ¶ 42.) Freeman often shared Kim's emails and recaps of their conversations with her aunt, who typically agreed with Kim's advice. (Kim Decl. ¶ 42.)

Response to No. 142: Partially disputed solely for purposes of this motion and partially undisputed. Plaintiff disputes that Kim worked with her for only 9 months to bring the manuscript into a form suitable for pitching to book editors. Kim worked with Plaintiff on revising the manuscript from the beginning of their relationship through December 2013 or early 2014. (Freeman Depo., 325:24 - 327:19; 328:7 - 329:8, true and correct copies of which are attached to the Passin : Decl, ¶ 2 and Ex. 1 thereto); (Suppl. Freeman Decl., ¶4).

143. In October 2011 Kim sent Freeman's manuscript out to editors at four major U.S. publishers: Penguin Group, Bloomsbury, Simon & Schuster, and Little Brown (Hachette). (Kim Decl., ¶ 26, Exs. 8-12.) Each rejected the manuscript. (Kim Decl. ¶¶ 26-27, Exs. 8-12.)

Response to No. 143: Undisputed.

144. During this timeframe, Freeman changed the name of her manuscript to *Masqued*. Kim provided high-level suggestions, for instance to give her character more agency, but Freeman remained focused on changing the characters to more unusual paranormal creatures and other

such surface alterations. Kim felt that her feedback was not resonating with Freeman. (Kim Decl. ¶ 28.)

Response to No.144: Undisputed for purposes of this motion.

145. In mid-November 2011, Freeman informed Kim that although a copy of her manuscript had been sent again to Lucy Vanderbilt at HarperCollins UK, Vanderbilt had not read it, and suggested that Freeman have her agent submit the manuscript directly to her contact at HarperCollins. (Kim Decl. ¶ 29, Ex. 13.)

Response to No. 145: Undisputed.

146. Thereafter, Kim sent Freeman's manuscript to both HarperCollins US and HarperCollins UK, but both rejected it. (Kim Decl. ¶¶ 30-31, Exs. 14-15.)

Response to No. 146: Undisputed.

147. In April 2012, Kim sent out another round of submissions to seven different editors on behalf of Freeman, including editors at Disney-Hyperion, St. Martins, and Tor, and new editors at Penguin and Bloomsbury. (Kim Decl. ¶¶ 32, Exs. 16-22.) Each rejected the manuscript. *Id.*

Response to No. 147: Undisputed.

148. After these rejections, Freeman continued to work on her manuscript, and Kim continued to offer suggestions and have readers review the book. (Kim Decl. ¶¶ 33-35, Exs. 23-26.) The manuscript draft Freeman sent to Kim on July 30, 2013 was the last version Kim ever saw. (Kim Decl. ¶ 35, Ex. 26.)

Response to No. 148: Undisputed that after the rejections, Freeman continued to work on her manuscript, and Kim continued to offer suggestions and have readers review the book. Disputed that the manuscript that Freeman sent to Kim on July 30, 2013, was the

last version Kim ever saw. (See Pl's Response to Defs' Rule 56.1 Statement, ¶¶ 24 & 50 and the evidence cited therein).

149. Upon reviewing the newly-revised book, it was becoming clear to Kim that Freeman's edits to the book were still not moving it in the right direction, and in September, she wrote to Freeman and suggested they part company. (Kim Decl. ¶ 36, Ex. 27.) However, Freeman asked her to send out one last round of submissions, and on October 10, 2013 Kim submitted Freeman's manuscript to Entangled, Holiday House, Thomas Dunne, and another editor at Penguin. (Kim Decl. ¶ 37, Exs. 28-31), and then later two submissions to CarolRhoda and Scholastic (Kim Decl. ¶ 37, Exs. 32-33.)

Response to No. 149: Plaintiff objects to paragraph 149 on the grounds that it is not a short and concise statement as required by Rule 56.1. Subject to the foregoing objection, Plaintiff disputes that Kim wrote in September and suggested her and Freeman part company and Ex. 27 (which is really Ex. AA to the Koonce Decl.) does not support that alleged fact. Plaintiff admits the rest of the paragraph,

150. By February 14, 2014, Prospect had received rejections from all of the above publishers except for Entangled. (Kim Decl. ¶ 39, Exs. 27-31, 32-33.)

Response to No. 150: Undisputed.

151. On March 25, 2014, Freeman terminated her relationship with Kim and Prospect Agency, noting that "I don't believe Entangled will want Masqued as it is," and asking Kim to withdraw her manuscript from Entangled, which Kim then had her assistant do. (Doniger Ex. 24; Kim Decl. ¶ 41.)

Response to No. 151: Undisputed that on March 25, 2014, Freeman terminated her agency agreement with Kim and Prospect Agency. Disputed to the extent it suggests all

of Kim's agency obligations terminated. Undisputed as to the rest of the paragraph. (*See* Pl's Response to Defs' Rule 56.1 Statement, ¶¶ 11, 24 & 59 and the evidence cited therein).

152. After Freeman and Prospect terminated their professional relationship in March 2014, they had no further contact before the current dispute arose except once in 2015, when Kim emailed Freeman just to touch base. (Doniger Ex. 34.) In that email exchange, Freeman stated "I really needed to take some time away from Masqued and then get perspective. The story just didn't work. I've written a new story, using parts of Masqued that I loved, and a completely different mythology with Egyptian gods....! Not quite done but very close." (Doniger Ex. 34.)

Response to No. 152: Disputed that the termination of the agency agreement fully terminated Freeman's relationship with Kim and Prospect, but that is a legal question. Disputed that Freeman and Kim had no contact after the termination of the agency agreement in March 2014 until the current dispute arose. (*See* Pl's Response to Defs' Rule 56.1 Statement ¶¶ 11, 24 & 59 and the evidence cited therein).

153. Freeman continued to revise her manuscript extensively over the next several years with an eye towards pitching it to publishers, working with a book doctor and a freelance editor, and showing it to agents, other authors, and readers; but she struggled to fix perceived problems with the plot. (Kim Decl. ¶¶ 43, 50-49, Exs. 34-41; Doniger Ex. 34.)

Response to No. 153: Disputed. (Freeman Depo. 333:18- 338:5, true and correct copies of which are attached to the Passin Decl., ¶ 2 and Ex. 1 thereto); (*See* Pl's Response to Dgefs' Rule 56.1 Statement, ¶¶ 11 & 24 and the evidence cited therein.)

PLAINTIFF'S ADDITIONAL MATERIAL FACTS

The References in Freeman’s Additional Statements of Undisputed Fact (ASUF) below to the following documents are references to the copies of the underlying works at issue in this case as authenticated by and filed with Lynne Freeman’s November 2023 Declaration

- a) **“BMR: The World Notes, 2010”** *See* Freeman Decl. ¶ 5, Exh. 3 (ECF 277-2)
- b) **“BMR: Marcheline & Brie”** *See* Freeman Decl. ¶ 5, Exh. 4 (ECF 277-3)
- c) **“BMR: Midnight Overview Notes 2008”** *See* Freeman Decl. ¶ 5, Exh. 5 (ECF 277-4)
- d) **“BMR: Pitch Notes to Emily Sylvan Kim, 2013”** *See* Freeman Decl. ¶ 5, Exh. 6 (ECF 277-5)
- e) **“BMR: The Cast Notes, 2008”** *See* Freeman Decl. ¶ 5, Exh. 7 (ECF 277-6)
- f) **“BMR: Chapter Analysis, 2010”** *See* Freeman Decl. ¶ 5, Exh. 8 (ECF 277-7)
- g) **“BMR: Chapter Outline to Emily Sylvan Kim, 2013”** *See* Freeman Decl. ¶ 5, Exh. 9 (ECF 277-8)
- h) **“BMR: The Key”** *See* Freeman Decl. ¶ 5, Exh. 10 (ECF 277-9)
- i) **“BMR: The Plot Notes, 2008”** *See* Freeman Decl. ¶ 5, Exh. 11 (ECF 277-10)
- j) **“BMR: 2011”** *See* Freeman Decl. ¶ 5, Exh. 14 (ECF 277-13)
- k) **“BMR: 2016”** *See* Freeman Decl. ¶ 5, Ex. 15 (ECF 277-14)
- l) **“BMR: 2014”** *See* Freeman Decl. ¶ 5, Ex. 16 (ECF 277-15)
- m) **“BMR: 2013”** *See* Freeman Decl. ¶ 5, Exh. 17 (ECF 277-16)
- n) **“BMR: 2010”** *See* Freeman Decl. ¶ 5, Exh. 18 (ECF 277-17)
- o) **“BMR: 2012”** *See* Freeman Decl. ¶ 5, Exh. 19 (ECF 277-18)
- p) **“Crave”** *See* Freeman Decl. ¶ 13, Exh. 31 (ECF Nos. 276-31 - ECF 276-33)
- q) **“Crush”** *See* Freeman Decl. ¶ 15, Exh. 33 (ECF Nos. 276-35 - ECF 276-37)
- r) **“Covet”** *See* Freeman Decl. ¶ 15, Exh. 34 (ECF Nos. 276-38 - ECF 276-40)
- s) **“Court”** *See* Freeman Decl. ¶ 15, Exh. 35 (ECF Nos. 276-41 - ECF 276-43)

The following facts concern the plot, storyline, and sequence of each work:

Facts regarding the beginning of BMR and Crave (Book 1):

154. The heroine lives /landed in Anchorage, she is originally from San Diego. She is almost / is seventeen. **BMR:** 2010 p. 12, 331-332; **BMR:** 2011 p. 11, 15, 20, 124; **Crave:** p. 1-8, 15, 22, 28, 34, 90, 98, 278
155. The heroine thinks about California and compares it to the cold of Alaska, describing Alaska as frozen and in negative terms. **BMR:** 2011 p. 11-12; **Crave:** p. 3, 5, 90
156. The heroine describes Alaska as like the moon. **BMR:** 2011 p. 49, 273-274, 411; **Crave:** p. 3-8, 34
157. The heroine thinks about the death of her family and about the only family she has left. **BMR** 2011 p. 11-13, 15; **BMR:** 2013 p. 34; **Crave:** p. 7-8, 22, 28
158. The heroine has panic attacks from trauma caused by loss of family. **BMR:** The World Notes 2010; **BMR:** 2011 p. 2, 524; **Crave:** p. 15.
159. On the first school day, the heroine is given a ride on a motorcycle/snowmobile. **BMR:** 2010 p. 43, 2012 pp. 49-53; **Crave:** pp. 10-11.
160. During the ride, she is given an extra helmet, told to hold on tight, and the driver speeds along into darkness that stretches forever. **BMR:** 2010 p. 43, 2012 pp. 49-53; **Crave:** pp. 10-11.
161. The heroine is told “home sweet home” and gives her friend the “universal look / sign.” **BMR:** 2011 p. 412 (“home sweet home”), 2012 p. 27 (“universal look”); **Crave:** p. 40-41.
162. The heroine is not feeling well / orders soup. **BMR:** 2011 p. 100; **Crave:** pp. 34-38.

163. The Brendan/Flint character (discussed below) offers heroine support, which he initially resists, and walks her down the hallway. **BMR:** 2011 p. 100; **Crave:** pp. 34-38.

Facts regarding the scene of heroine's initial encounter with the romantic lead:

164. The heroine is driven to school by a relative, her Mom (BMR) / cousin Macy (Crave).
BMR: 2010 p. 9; **BMR:** 2011 p. 12; **Crave:** p. 6.

165. The heroine meets the romantic lead for the first time and describes him: as hot, dangerous, beautiful, sexy, striking, wicked, wild, and having dark hair, chiseled features, full red lips, hard biceps, and being long /tall and lean. **BMR:** 2011 p. 15-25; **Crave:** p. 20-23

166. Shakespeare is quoted between the heroine and romantic lead when they first meet, and the heroine is irritated with the romantic lead and his behavior. **BMR:** p. 2011 p. 40; **Crave:** p. 24-25.

167. The heroine snaps back at the romantic lead when she feels offended by him at their first meeting. She fires back / he fires back. She is upset he wins the conversation. **BMR:** 2011 p. 47, 53; **Crave:** p. 26-27.

168. The romantic lead is so close the heroine can feel his warm breath, and she is / will be pressed against him. She feels the warmth of his body, his eyebrows arch; He looks at her / watches her. She answers him breathless / breath catches in her throat. **BMR:** 2011 p. 54-55; **Crave:** p. 27-28.

169. The romantic lead reaches out and touches the heroine's hair during their first meeting.
BMR: 2011 p. 62; **Crave:** p. 29.

170. At the end of their first meeting, the romantic lead warns the heroine to be careful. **BMR:** p. 2011 p. 62; **Crave:** p. 31.

171. He warns her about “things that go bump in the night.” **BMR:** 2010 p. 185; **Crave:** p. 198.

172. After the heroine first meets the romantic lead, she goes to bed that night thinking about the romantic lead and her friends, as well as the loss of her family. **BMR:** 2010 p. 56, 58; **BMR:** 2011 p. 34; **Crave:** p. 48-50.

173. At the end of the day after the heroine first meets the romantic lead she visits with Aunt Brie / Uncle Finn who discuss her day and are concerned for her. They hug her and bring / order her tea and cookies / soup and ginger ale. **BMR:** 2010 p. 55-56; **Crave:** p. 33-34.

174. The romantic lead wants to know what kind of drink/movies/food the heroine likes. **BMR** 2011 p. 288, 2010 p. 225; **Crave:** pp. 191-193.

Facts regarding the scene and sequence of heroine getting attacked by two guys who remind her of eighties rockers:

175. The heroine sees two guys wearing jeans and shirts, no coats. They remind her of 80’s rockers wearing a dog collar, earring / 80’s concert T-shirts and a nose ring; they are not dressed for the cold weather. **BMR:** 2011 p. 519; **BMR:** 2013 p. 58; **BMR:** 2014 p. 48; **Crave:** p. 53

176. The heroine describes the two guys who attack her: one muscular, one blond with short spiky hair /The two guys: one dark hair, one blond shaved close to his head. **BMR:** 2011 p. 519; **BMR:** 2013 p. 58 §3; **Crave:** p. 53 §7.

177. One guy moves toward her and asks a question. **BMR:** 2013 p. 59 §2 (closing distance between them); **Crave:** p. 53 §8 (getting into her personal space).

178. One of the guys tells the heroine that it’s against the rules and he also bets her / The romantic lead tells the attackers about the rules and tells the heroine “I bet.” **BMR:** 2013 p. 58; **BMR:** 2014 p. 48; **Crave:** p. 59-61.

179. Heroine thinks about making light / lights in the sky. **BMR:** 2013 p. 59 §2; **Crave:** p. 52 §5.
180. The heroine is reminded of a movie during the attack scene and references movie characters/ settings and the supernatural / ghosts. **BMR:** 2013 p. 59, 62, 395; **BMR:** 2014 p. 48 §2; **Crave:** p. 53, 55, 255.
181. The blond hair attacker reaches out and grabs her. **BMR:** 2013 p. 59 §10, p. 60 §1; **Crave:** p. 56 §1.
182. One of the attackers reaches out and grabs the heroine, she is pinned to the guy. **BMR:** 2013 p. 59 §10, p. 60 §1, 2014 p. 49 §5; **Crave:** p. 56 §1.
183. She stomps on the attacker's toes/ thinks about stomping on his feet and screams/ will scream. **BMR:** 2011 p. 521 §8, 2013 p. 359 §7, 2014 p. 214 §2; **Crave:** p. 56 §2 - §3.
184. She struggles with the two attackers- bucks, slams head back/ head butts aiming to break /breaks his nose. She thinks about kicking the attacker's shins / knees and stomping on his toes / feet. **BMR:** 2011 p. 521; **BMR:** 2013 p. 59-60; **BMR:** 2014 p. 48-50; **Crave:** p. 56-57.
185. During the attack the heroine is angry and feels fury/ infuriated. **BMR:** 2013 p. 60 §8, 2014 p. 50 §7; **Crave:** p. 56 §5, p. 57 §1.
186. Blood fills her mouth and tastes coppery/ metallic. **BMR:** 2014 p. 50 §8; **Crave:** p. 57 §1.
187. The heroine puts fists up and prepares to escape. **BMR:** 2013 p. 60 §8, 2014 p. 50 §7; **Crave:** p. 57 §6.
188. The second villain (Hulk/ Quinn) pulls/ yanks the hair of the heroine. **BMR:** 2014 p. 50 §8; **Crave:** p. 54 §8.

189. The romantic lead rescues her and scares the two guys away, but the heroine doesn't realize it at first. **BMR:** 2014 p. 50; **Crave:** p. 57-58
190. After the attack the heroine mentions /thinks about a self-defense class / training when she's with the romantic lead. **BMR:** 2013 p. 62 §2, 2014 p. 52 §6; **Crave:** p. 59 §4.
191. The romantic lead looks the heroine over after the attack to check she's okay. He asks her if she's hurt? / okay? And the heroine replies she's fine. **BMR:** 2013 p. 61; **Crave:** p. 60.
192. The heroine thanks the romantic lead for coming to her aid during the attack. The romantic lead tells the heroine that he doesn't feel he deserves her thanks, he believes his involvement with her puts her in danger. **BMR:** 2013 p. 68 §4, 2014 p. 57, 99; **Crave:** p. 61 §3.
193. Ronan / Romantic lead wipes away the heroine's tears / blood with his thumb, licks it and holds her gaze. This sequence occurs later in BMR and is used in the attack scene in Crave. **BMR:** 2011 p. 594 §2; **Crave:** p. 61-62.
194. The heroine thinks about the two guys who assaulted her and wonders why they weren't cold. **BMR:** 2011 p. 519; **Crave:** p. 68.

Facts regarding the scene where the heroine fights a vampire / werewolf:

195. The heroine fights a vampire/werewolf; **BMR:** 2011 p. 521 §6; **Crush:** p. 606 §6
196. She hits the vampire / werewolf and blood spurts from his nose. **BMR:** 2011 p. 521 §9
Crush: p. 601 §6
197. The voice in her head (abomination / Unkillable beast character—discussed below) speaks to her. **BMR:** 2011 p. 520 §4; **Crush:** p. 608 §3

198. Her attacker puts himself on top of her and she can't throw/get him off. **BMR:** 2014 p. 50 §3; **Crush:** p. 608 §3 §5

199. The heroine bucks and twists during the fight. **BMR:** 2011 p. 560 §3; **Crush:** p. 608 §7.

200. She kicks him in the groin / knees him in the balls. **BMR:** 2011 p. 560 §1, **BMR:** 2014 p. 49 §8; **Crush:** p. 610 §5.

201. She faints in this scene, with fading to black / darkness. **BMR:** 2014 p. 50 §9; **Crave:** p. 609 §10.

Facts regarding the scene where the heroine gets ready for a party:

202. The heroine and her friend discuss jeans and what the heroine is wearing to the party. **BMR:** 2010 p. 269, **BMR** 2013 p. 267; **Crave:** p. 72-73.

203. She bats her mom / cousin's hands away as they try to help her with hair / clothing. **BMR:** 2011 p. 14 §2; **Crave:** p. 171 §4.

204. She is offered a red dress to the party, but she doesn't want to wear it. **BMR:** 2011 p. 137 §4, §5; **Crave:** p. 430 §2, p. 431 §2, p. 434 §4.

205. The phrase "a little glamour" is used by the heroine's aunt / cousin for hair and makeup scenes. **BMR:** 2014 p. 101 §1 - p. 102 §2; **Crave:** p. 322 §10 - p. 323 §3.

206. The element of air ruffles the heroine's hair when it is called upon. **BMR:** 2011 p. 386 §9 - p. 387 §1, p. 463 §3; **Crave:** p. 355 §11- §14

207. Heroine is at the school party with her friends Taylor and Amanda / Macy and chokes on a carbonated drink, her friends pat / pound her back to help her. **BMR:** 2013 p. 38 §3-§4; **Crave:** p. 87 §2 - p. 88 §3.

208. Heroine is at the school party with her friends Taylor and Amanda and chokes on a carbonated drink / Heroine is at the school party with her friend Macy, and Macy also chokes on her own saliva. Heroines friends / heroine pats her back to help her. **BMR:** 2013 p. 273 §4; **Crave:** p. 78 §5-§7.
209. The mean girls try to trip her / throw a ball at her head. **BMR:** 2011 p. 107; **Crave:** pp. 246-247.

Facts regarding the scene where heroine is given spiked drink by female nemesis:

210. The heroine doesn't want to go to the cafeteria at school / welcome party at school, and although hesitant she is brought along by her friend Brendan / Macy. **BMR:** 2010 p. 78 (cafeteria); **Crave:** p. 73-75 (welcome party)
211. The heroine is worried about entering the cafeteria / party at school and her friend tells her to stand her ground / her pride stops her from fleeing. **BMR:** 2010 p. 78; **Crave:** p. 80
212. Taylor / Macy and the romantic lead all make grand entrances to the party, like they own the place. **BMR:** 2010 p. 276; **Crave:** p. 75, 86
213. The heroine has a nervous stomach about going to the cafeteria / welcome party at school. **BMR:** 2010 p. 78; **Crave:** p. 74
214. The heroine describes the different social groups at the school, the cliques. She worries about the mean girls. **BMR:** 2010 p. 75, 79-80; **Crave:** p. 77, 79-80
215. The heroine is given a special drink by Taylor at the party / Lia after the party and told she'll like it. She takes a sip and thinks it tastes fruity / floral. **BMR:** 2013 p. 276-277; **Crave:** p. 100-101

216. The heroine tells her she needs to go after having the drink, but Taylor / Lia tells her to stay and to drink more of the special drink. **BMR:** 2013 p. 277; **Crave:** p. 103-104
217. She notices the look on Taylor / Lia's face as she tells her she has to leave. Taylor / Lia rolls her eyes and is rude to her. **BMR:** 2013 p. 277-278; **Crave:** p. 104-105
218. It's night time after the party and the heroine is feeling sick and throws up Ever pink/tea & Dr. Pepper, she rides waves of queasiness / nausea then afterwards dry heaves until finally her stomach is empty / dry heaves her guts up. The romantic lead /Macy helps her back to the car / to her bed. **BMR:** 2013 p. 288-290; **Crave:** p. 107-109
219. Heroine feels like she's in Mean Girls in the cafeteria / Heroine thinks about Mean Girls. **BMR:** 2010 p. 117; **Crave:** p. 115

Facts regarding the scene where heroine falls in the snow, is injured, and the romantic lead carries her home and removes her boots:

220. The heroine falls in the snow and has the breath knocked out of her. She panics, and can't breathe. She struggles and finally gulps air. **BMR:** 2011 p. 2-4; **Crave:** p. 153-154
221. While the romantic lead and heroine are at a party / snowball fight game at school there is friction between the romantic lead and Brendan/Flint character. The heroine tries to diffuse the tension between them. The romantic lead then offers to give the heroine a ride home/walks her home. (This sequence is in a different place in BMR and is used in Crave for this scene.) **BMR:** 2011 p. 163-166; **Crave:** p. 156-158
222. After the heroine is injured she is carried back to the house/school by the romantic lead. She protests and asks him to put / let her down. But the heroine secretly wants to stay in his arms. The romantic lead carries her into the great room/ her room and sets her down on a

divan /on the bed, removes her boots and wraps her in a oh-so-soft blanket / and his touch-already soft-gets even gentler. (This sequence is in a different place in BMR and is used in Crave for this scene.) **BMR:** 2011 p. 413-418; **Crave:** p. 160-163

223. The heroine's mouth waters at the thought of kissing/touching the romantic lead, and she 'breathes him in'. She is so overwhelmed she can't speak. (This sequence is in a different place in BMR and is used in Crave for this scene.) **BMR:** 2013 p. 321; **Crave:** p. 165-166

224. The romantic lead tells the heroine this isn't going to be easy for them to be together. (This sequence is in a different place in BMR and is used in Crave for this scene.) **BMR:** 2010 p. 200; **Crave:** p. 167

225. Heroine's mom / cousin puts a black choker / black tie around heroine's neck and compliments her on how it looks, steps back and admires her handiwork. (This sequence is in a different place in BMR and is used in Crave for this scene.) **BMR:** 2011 p. 219 §3; **Crave:** p. 206 §4-5.

Facts regarding the scene where heroine breaks down and cries at school over her feelings of loss:

226. The heroine slumps / sinks down in tears, she wants to avoid attention. She is afraid she won't stop crying. **BMR:** 2011 p. 34; **Crave:** p. 252-253

227. She rocks herself and has wrenching sobs as she experiences the pain and grief from losing her family members. **BMR:** 2011 p. 34, 470; **Crave:** p. 252

228. The romantic lead catches the heroine crying, and she's embarrassed. The heroine asks how much did the romantic lead hear / how long has the romantic lead been there. **BMR:** 2011 p. 34; **Crave:** p. 253-254

229. After the crying scene, the romantic lead walks the heroine to class /his room at school and opens the door for her to enter. **BMR:** 2011 p. 37; **Crave:** p. 256

Facts regarding the scene where the first kiss between heroine and romantic lead occurs:

230. At the beginning of the scene the romantic lead glances / climbs out of the window. / The heroine is helped outside / through the window by the romantic lead who takes /asks to take her hand. There is a gust /rush of freezing / frigid air. **BMR:** 2013 p. 154-155; **Crave:** p. 270-271, 277

231. Romantic lead takes the heroine to view the northern lights/ a meteor shower. They witness a light show at night. **BMR:** 2013 p. 153-155; **Crave:** p. 263

232. The heroine wants the romantic lead to kiss her, but is afraid he might. **BMR:** 2013 p. 155; **Crave:** p. 267

233. Heroine can't look / back away, she's caught / mesmerized. Romantic lead cups heroine's face in his hand. **BMR:** 2013 p. 157-158; **Crave:** p. 269

234. The romantic lead looks / stares back at the heroine, he then leans in / down, and presses a soft kiss and brushes his lips / mouth against hers. **BMR:** 2013 p. 158; **Crave:** p. 270

235. The heroines' arms around the romantic lead's neck. During the kiss the heroine is delirious / light-headed. **BMR:** 2013 p. 158; **Crave:** p. 271

236. The heroine is scared of the romantic lead. His eyes are burning / gleaming eyes, he's a monster and she needs to run away. **BMR:** 2013 p. 159, 162; **BMR:** 2011 p. 173-176; **Crave:** p. 272
237. The heroine is stabbed / cut by glass and experiences blood loss. (This sequence is in a different place in BMR and is used in Crave for this scene.) **BMR:** 2010 p. 327; **BMR:** 2011 p. 407-408, 403; **Crave:** p. 273-274, 283
238. The heroine is given a healing bite by the romantic lead to save her life after the blood loss from the stab wound / cut. **BMR:** 2010 p. 329; **BMR:** 2011 p. 425; **Crave:** p. 319.
239. She is told to rest and drink a sweet drink by the doctor/nurse. **BMR** 2011 pp. 417-418, 2012 pp. 342-343; **Crave:** p. 277.
240. Heroine wonders if she will turn into the same kind of creature that the romantic lead is now. **BMR:** 2010 p. 329; **Crave:** p. 320.

Facts regarding the scene where heroine finds marks on her neck:

241. The heroine realizes the romantic lead tried to keep his distance so she wouldn't figure out the truth. **BMR:** 2011p. 186; **Crave:** p. 300
242. The heroine can't sleep, she goes to the bathroom and looks in the compact / mirror and sees marks on her neck. She runs her fingers over her neck. She has questions on her mind, and doesn't want any more lies, she is impatient and wants / needs answers about what happened to her, and about the romantic lead. **BMR:** 2011 p. 189-193; **Crave:** p. 299-304

243. Heroine notices that the romantic lead / romantic lead's friend doesn't cross over the threshold unless invited and wonders if he / they are vampires. **BMR:** 2011 p. 202; **Crave:** p. 310
244. Heroine learns the romantic lead is a werewolf shifter / vampire. **BMR:** 2011 p. 228; **Crave:** p. 313
245. The heroine wants to know about supernaturals, and the romantic lead / Macy asks the heroine if she's scared / afraid (*to find out the truth*). She learns that monsters are true / real. **BMR:** 2011p. 236-238; **Crave:** p. 313-318
246. The heroine describes vampires as 'vamps'. **BMR:** 2011 p. 508; **Crave:** p. 314
247. Brendan / Flint character is a faery / dragon, - a winged supernatural being. Heroine asks if her cousin is a fairy / Heroine is told her friend is a fairy. **BMR:** 2013 p. 283, 405; **Crave:** p. 314
248. The heroine learns about her true identity and that of her parents. She is shocked - it's a lot to take in /her mind is stretched. She didn't know that her father was a wolf shifter / witch, and that her mother is a witch / gargoyle. Her parents were deeply / ridiculously in love. **BMR:** 2010 p. 354; **BMR:** 2011 p. 575-578; Midnight Overview Notes 2009 (parents deeply in love); **Crave:** p. 315-316
249. The heroine's remaining two family members are both witches. **BMR:** 2013 p. 220; **Crave:** p. 316
250. Romantic lead saved the heroine with his healing bite / venom. **BMR:** 2010 p. 329; **Crave:** p. 319

251. The heroine learns that vampire saliva / venom has coagulating properties used to heal. She discusses the Harry Potter references made by Vampire Prince / Macy. **BMR:** 2010 p. 429-430; **Crave:** p. 317-320
252. Technically werewolves are wolf shifters, and are affected by the full moon. **BMR:** 2011 p. 231, 236; **Crave:** p. 321
253. Heroine's friend, as well as a teacher talk about alien theories / Heroine thinks about her prior alien theory to explain the strange goings-on at school. **BMR:** 2016 p. 41; **Crave:** p. 325

Facts regarding the northern lights scene:

254. Heroine barely feels the cold with the romantic lead to check out the northern lights. **BMR:** 2013 p. 153 §3; **Crave:** p. 438 §4
255. Green and purple swirl across the sky. **BMR:** 2013 p. 154 §3; **Crave:** p. 438 §3.
256. They laugh and have just returned from a school dance where they danced together and are now under the northern lights / they dance together under the northern lights.. **BMR:** 2011 p. 162 §8 - p. 163 §2; **Crave:** p. 441 §6
257. It's a lightshow. **BMR:** 2013 p. 154 §1; **Crave:** p. 441 §6
258. The romantic lead puts / wraps his arms around the heroine: like a blanket. **BMR:** 2011 p. 161 §3 - p. 162 §7; **Crave:** p. 438 §5.
259. The heroine says there's a scientific explanation for northern lights / the heroine explains the science of it. **BMR:** 2011 p. 168 §6; 2013 p. 154 §5; **Crave:** p. 439 §3-§4.
260. Romantic lead and heroine kiss. **BMR:** 2013 p. 158 §4; **Crave:** p. 439 §12.

Facts regarding the scene where heroine is kidnapped by vampire prince/vampire prince's mate at climax of story:

261. The heroine is kidnapped by the vampire prince / vampire prince's mate and believes /is told it's her fault. She shivers and her muscles cramp / stretched. She's worried about the vampire prince / vampire prince's mate killing her /the romantic lead. **BMR:** 2010 p. 425; **BMR:** 2011 p. 527-528; **Crave:** p. 455
262. Taylor aided Julian, the vampire prince in kidnapping the heroine / Lia kidnapped her. **BMR:** 2010 p. 458; **BMR:** 2011 p. 566; **Crave:** p. 455
263. While captured the heroine feels panic and wishes she felt empowered / had the power to escape but can't muster any / has none. **BMR:** 2010 p. 421-422; **BMR:** 2011 p. 524; **Crave:** p. 455-456
264. The heroine's arms are in cuffs / tied to an iron ring and she's on a cold floor / slab. **BMR:** 2010 p. 422; **Crave:** p. 455
265. The vampire prince, Julian / vampire prince's mate, Lia has been waiting a long time to get the heroine and admits to killing the heroine's family members. **BMR:** 2010 p. 436, 443; **BMR:** 2011 p. 539; **Crave:** p. 483
266. The vampire prince, Julian / vampire prince's mate, Lia wants to use the heroine to bring their mate back from the dead; *reincarnation* / *resurrection*. **BMR:** 2010 p. 436, 444; **BMR:** 2011 p. 545-549; **Crave:** p. 483-485

267. The Vampire prince / vampire prince's mate is suffering from the loss of their mate and wants vengeance against the person they believe killed them. **BMR:** 2010 p. 437, 442-443, 467; **BMR:** 2011 p. 539-540, 544; **Crave:** p. 485-486
268. At first the heroine feels pity /sorry for the vampire prince / vampire prince's mate even though they might kill her, but then angry as he/she murdered her family. **BMR:** 2010 p. 437, 443-444; **BMR:** 2011 p. 540; **Crave:** p. 483-484
269. The heroine worries she'll be Frankenstein's bride / Frankenstein if the plan to resurrect the dead mate works. **BMR:** 2012 p. 474; **Crave:** p. 485
270. The heroine finds the voice in her head has deserted her / is absent when she needs it during this kidnapping scene. **BMR:** 2010 p. 453; **BMR:** 2011 p. 524, 543; **BMR:** 2012 p. 442; **Crave:** p. 463
271. The heroine realizes she can't compete against the vampire prince's / vampire prince's mate's strength, so she holds still /doesn't move during the fight in the kidnapping scene. **BMR:** 2010 p. 449; **BMR:** 2011 p. 555; **Crave:** p. 479
272. The heroine is choked by another supernatural being (Selene / Flint). The vampire prince / romantic lead saves the heroine from being choked by throwing / heaving Selene / Flint across the room. **BMR:** 2010 p. 447; **BMR:** 2011 p. 552; **Crave:** p. 467-470
273. During the fight scene the heroine notes Julian/Lia's strength and that Julian could turn her brain to mush /Lia slams her head and the heroine's brain is not functioning well. She feels disconnected from her body and tries to fight the feeling/ Heroine wants to pass out but Lia won't let her. **BMR:** 2013 p. 414-415; **Crave:** p. 476
274. Ban sidhe (Gaelic for Banshee) / Banshee is said during this scene. **BMR:** 2013 p. 408; **Crave:** p. 480

275. Romantic lead's rescue causes the door / wall to shudder and fall apart. **BMR:** 2010 p. 450-451; **BMR:** 2011 p. 556; **Crave:** p. 487
276. The voice inside her urges her to stand up to the Vampire Prince/Vampire prince's mate during the fight. **BMR:** 2010 p. 450-452; **BMR:** 2011 p. 556-558; **Crave:** p. 489
277. There is a loud /giant wrenching sound and the female vampire is thrown across the room and hits the wall. There is a sickening crunch of a wrist / bone. **BMR:** 2010 p. 429, 447; **BMR:** 2011 p. 532, 552; **Crave:** p. 489-490
278. There is a primal war cry when the heroine jumps on a demon's back with a dagger / Lia jumps on the romantic lead's back with a knife. **BMR:** 2010 p. 452; **BMR:** 2011 p. 559; **Crave:** p. 490-491
279. The heroine must do something, anything to save the romantic lead's life after she has been rescued by the romantic lead from the vampire prince / vampire prince's mate. **BMR:** 2014 p. 357; **Crave:** p. 496
280. At the end of the kidnapping scene the romantic lead believes the heroine's abduction was his fault; the nemesis is gone. **BMR:** 2010 p. 488; **Crave:** p. 490
281. The heroine saves the romantic lead and herself by stabbing the demon / vampire prince's mate with a dagger / a knife. **BMR:** 2011 p. 559; **Crave:** p. 492
282. Heroine stabs the Ka Ramun demon and he turns into dust / Romantic lead throws the smoke at Lia and she turns into dust. **BMR:** 2011 p. 560; **Crave:** p. 495

Facts regarding the scene at the end of Crave:

283. The Bloodletter character turns into a raven / winged creature and takes off into the night sky sequence. **BMR:** 2012 p. 524; **Crave:** p. 570.

Facts regarding the scene of heroine's Tarot card reading:

284. Heroine has a Tarot card reading with a fortune-teller. **BMR:** 2013 p. 433 §10 - p. 434 §1; **Covet:** p. 539 §3.
285. The teller fans out the cards for the heroine. **BMR:** 2013 p. 431 §3; **Covet:** p. 540 §4
286. The teller tells the heroine she's her grandmother / you look like my granddaughter. **BMR:** 2013 p. 436 §2; **Covet:** p. 540 §6
287. The heroine has drawn a bad card, it's the Tower card. **BMR:** 2013 p. 9 §10; **Covet:** p. 540 §10
288. The card is the Tower card stricken / struck by lightning. **BMR:** 2010 p. 5 §3, 2011 p. 6 §7; **Crave:** p. 290 §1; **Covet:** p. 540 §12.

Facts regarding the scene where Brendan/Flint is mortally wounded:

289. Brendan/Romantic lead are bitten by a supernatural cobra snake / Cyrus the Vampire King whose bite is like a cobra. **BMR:** 2016 p. 79 §7 - p. 80 §9; 2016 p. 86 §1; **Covet:** p. 290 §3-5; **Crush:** p. 380 §5.
290. Brendan / Flint is going to die. **BMR:** 2016 p. 86 §2-6; **Covet:** p. 622 §12 - p. 623 §2.
291. The heroine has a magical tattoo that lights up like tiny pin / needle pricks. **BMR:** 2011 p. 436 §6 (magical tattoo); **Covet:** p. 623 §2.
292. The heroine's tattoos are used as a conduit for magic in the snake bite scene. **BMR:** 2016 p. 80 §7-8; **Covet:** p. 623 §2; **Covet** p. 625 §8 - 626 §1.
293. Brendan / Flint's breaths are shallow. **BMR:** 2016 p. 95 §3; **Covet:** p. 623 §8.
294. The heroine smells the stink / sickening scent of charred flesh fills the air, she holds back a scream/ screams and wonders what happened. **BMR:** 2011 p. 231 §5 - p. 232 §3; **Covet:** p. 629 §1-5.

295. The heroine's head is filled with a buzzing sound / her own scream at the terrible sight.

BMR: 2016 p. 53 §1; **Covet:** p. 622 §8

296. The heroine has to do something as she doesn't have time / running out of time to save the

sea creatures / Flint. **BMR:** 2016 p. 53 §1-3; **Covet:** p. 622 §12.

297. The beach is littered with lifeless bodies. **BMR:** 2016 p. 52 §2; **Covet:** p. 629 §6.

298. The heroine has never tried to heal anything like this before. **BMR:** 2016 p. 53 §8; **Covet:**

p. 622 §10.

299. The heroine has an inner dialogue about not being able to withstand anymore heartache

from loss. **BMR:** 2016 p. 95 §4; 2016 p. 97 §3; **Covet:** p. 634 §5-6; **Crave:** p. 493 §3

300. The heroine feels responsible for her friend's impending death. **BMR:** 2016 p. 97 §3-5;

Covet: p. 641 §6.

Facts regarding the scene where the heroine arrives at the castle:

301. Heroine arrives at a castle with a long driveway, stone walls, and security gates with a

keypad that requires a code. It is like a fortress, isolated, on a hillside. **BMR** 2013 p. 322;

Crave p. 13. **BMR** 2011 pp. 56, 411-416, 525; **Crave** p. 13-17, 75.

302. The heroine is reminded of a Salvador Dali painting (This happens in a different sequence

in BMR and is used here in Crave). **BMR** 2011 p. 491; **Crave:** p. 13.

303. The heroine arrives at a set of ornately carved double doors. **BMR:** 2011 p. 525 §1; **Crave:**

p. 75 §7

304. The castle has vaulted ceilings, crystal chandeliers, fireplace, and tapestries. **BMR** 2011 pp.

414, 416, **BMR** 2014 p. 338, **BMR** 2012 p. 313; **Crave:** p. 13-17, 76.

305. The heroine walks with a companion for what feels like a mile / really, really, really long time until they come / get to set / pair of golden double doors to a supernatural place.

BMR: 2016 p. 97 §6; **Covet:** p. 567 §2

306. The heroine describes an old-fashioned gold pocket watch held by a male character. **BMR:** 2011 p. 542 §2; **Court:** p. 192 §4

307. The heroine describes a golden chalice. **BMR:** 2011 p. 188 §4; **Court:** p. 210 §3

Facts regarding the scene when the heroine is in fight/game with vampire/werewolf:

308. The heroine fights a vampire/werewolf. **BMR:** 2011 p. 521 §6; **Crush:** p. 606 §6

309. In the fight / game the heroine hits the vampire / werewolf and blood spurts from his nose.

BMR: 2011 p. 521 §9; **Crush:** p. 601 §6

310. The voice in her head (abomination / Unkillable beast) speaks to her. **BMR:** 2011 p. 520 §4;

Crush: p. 608 §3

311. She kicks paranormal in the groin / she knees him in the balls. **BMR:** 2011 p. 560 §1, 2014 p. 49 §8; **Crush:** p. 610 §5

312. Heroine faints in this scene, with fading to black / darkness. **BMR:** 2014 p. 50 §9; **Crave:** p. 609 §10

Facts regarding BMR and Crush (Book 2):

313. The heroine has an injury and cannot remember how she got hurt. **BMR:** 2011 p. 3-4, 79, 2012 p. 5-7, 2013 p. 6-10; **Crush** p. 1-5.

314. Heroine realizes that she has accidentally brought Ronan/Hudson back from another dimension and that she is tied to him. **BMR:** 2013 p. 462, 2011 pp. 602-603; **Crush** pp. 27, 122; **BMR** 2013 p. 336, 453; **Crush** pp. 122-124.
315. When the heroine tries to remember what happens, she has terrible head pains. **BMR:** 2011 pp. 3, 11, 12, 79, 2012 p. 7, 2013 p. 10, 2014 p. 8; **Crush:** pp. 1, 5.
316. Powerful objects must be found to stop the war and Ronan/Hudson. **BMR:** 2013 pp. 46, 244, 330, 2011 pp. 432-434, 2010 pp. 453-54; **Crush:** pp. 162, 169, 425-426. In **BMR** there are 13 objects, one for each council member and for Ronan. In **Crave**, there are 5, one for each fraction. **BMR:** 2011 pp. 432, 434; **Crush:** pp. 169, 425-26. Each is located in Alaska. *Id.*
317. The Bloodletter is tied to the objects / the Bloodletter tells the heroine about the objects. **BMR** 2013 p. 107; **Crush** p. 170.
318. The heroine's relationship with the romantic lead begins to suffer. Every time she is close to the romantic lead, she hears the voice in her head telling her "no" and the romantic lead becomes weak when they are together. **BMR:** 2012 pp. 25, 113, 153, 2013 p. 362, 406, 2011 p. 233; **Crush:** pp. 11, 340-341.
319. The heroine learns that she is inadvertently feeding on the romantic lead's life force. **BMR** 2012 pp. 153, 222-223, 2013 p. 362; **Crush:** pp. 340-341.
320. The heroine learns about the Council/Circle/Order, which is the ruling body over all supernatural beings. **BMR:** 2013 pp. 335, 2016 p. 69; **Crush** pp. 107, 220, 243.
321. The romantic lead's parents are on the Council/Circle/Order. **BMR** 2011 p. 443; **Crush** p. 37.
322. The Order / Circle is corrupt. **BMR** 2012 p. 218; **Crush** p. 550.

323. Heroine learns about factions, which are types of supernatural beings. **BMR** 2012 p. 75; 2013 Chapter Outline to Emily Kim; **Crush** p. 169.
324. Covens are used to practice magic. **BMR** 2012 p. 265; **BMR** 2016 p. 56; **Crush** p. 125.
325. Compacts and covenants are agreements that bind supernatural beings. **BMR** 2012 pp. 196, 217; **Crush**: pp. 169, 177.
326. There have already been two great wars amongst the supernaturals and the third war is on the horizon. **BMR** 2014 p. 377; **Crush**: p. 219.
327. The heroine must pass an initiation test– she must pass the test to become fully accepted as “Kindred” / have a seat in the Circle. **BMR** 2012 p. 504; **Crush** p. 488.
328. There is an offer of training before the test, but the heroine declines. **BMR** 2012 p. 504; *Crush* pp. 486, 489. The test will allow her to claim her power and achieve supernatural purpose. **BMR** 2013 pp. 220-221, 268; **Crush** p. 242.
329. There are “wards” or “safeguards” which are magical devices the supernaturals use as protection to keep other beings out and ensure no fighting occurs. **BMR** 2013 pp. 184, 319; **Covet**: p. 88; **Crush**: p. 143.
330. Wards and safeguards are magical projections “woven into a place.” **BMR**: 2013 p. 368; **Crave**: p. 564.
331. Both works have ice caves. **BMR**: The World Notes; **Crush**: p. 132.

The following facts concern specific characters in the works:

Facts regarding the heroine, Anna (BMR) / Grace (Crave):

332. Heroine is about seventeen. **BMR**: 2011 p. 20 §6; 2010 p. 12 §3; **Crave**: p. 6 §7
333. Heroine is from San Diego. **BMR**: 2011 p. 124 §4; **Crave**: p. 278 §1

334. Heroine thinks Alaska is like the moon. **BMR:** 2011 p. 274 §5; **Crave:** p. 34 §4
335. Heroine describes Alaska as a frozen wasteland / hellhole. **BMR:** 2011 p. 12 §3 (frozen wasteland); **Crave:** p. 3 §5; p. 90 §3 (hell has frozen over; frozen hellhole)
336. Heroine thinks about California and compares it to the cold of Alaska. **BMR:** 2011 p. 11 §5; **Crave:** p. 5 §8.
337. Heroine describes how newbies dress in Alaska. **BMR:** 2011 p. 118 §3 - 119 §3; **Crave:** p. 117 §6
338. Mom / cousin brings the heroine to school on the day the story begins. Heroine thinks about how she has no other family left. **BMR:** 2011 p. 12-13 §3, p. 73; **Crave:** p. 7 §11 - 8 §8
339. Heroine lives with the remaining two family members who are both witches. **BMR:** 2011 p. 12-13 §3, p. 73; **Crave:** p. 7-8.
340. Only family Heroine has left are two people: mother and aunt (BMR) / cousin and uncle (Crave). **BMR:** 2011 p. 10 §3, 2013 p. 34 §2; **Crave:** p. 28 §3.
341. The only two family members left are both supernatural witches. **BMR:** 2013 p. 220 §2; **Crave:** p. 316 §1.
342. Father was a supernatural being, the heroine didn't know. **BMR:** 2011 p. 439 - 440, §8; **Crave:** p. 315-316, §6.
343. Parents loved one another very much. **BMR:** Midnight Overview Notes, 2009, p. 1, §6; **Crave:** p. 316, §12
344. At the start of the story, the heroine believes she is human. **BMR:** 2011 p. 409 §8, 2013 p. 343-345, 2016 p. 84; **Crave:** p. 133 §1, 214.

345. Parents kept the heroine ignorant of the magical world to protect her and that she is a magical being. **BMR**: 2013 p. 467 §3-4, 2014 p. 159 §2, The Plot Notes 2009; **Covet**: p. 600 §11, 602 §16.
346. Heroine is of mixed bloodlines. **BMR**: 2013 p. 255 §4, 2014 p. 280 §9; **Crave**: p. 316 §3.
347. Anna (BMR) is a cross between a witch, a werewolf, and something else that is unknown at the beginning of the works. **BMR**: 2013 p. 255; 2014 p. 280; 2010 p. 354; 2011 pp. 439-440, 456 (gargoyle half).
348. Grace (Crave) is a mix of a witch, gargoyle, and something else that is unknown at the beginning of the works. **Crave**: pp. 316 (dad is a witch), p. 484 (wonders about being something more); **Court** p. 477, 159 (magic in blood); **Covet** p. 398 (mom is a gargoyle). The unknown something is that the heroine is a descendant of one of the twin goddesses. **BMR**: 2016 p. 91, 104, 90; **Court**: p. 168, p. 159.
349. Grace's (Crave) father was a witch, her mother was a gargoyle, and her grandmother is the daughter of a deity. **Covet**: p. 397-398. Anna's (BMR) mom was a witch, her father was a werewolf, and her grandmother is the daughter of a deity. **BMR**: 2016 p. 4, 104.
350. Heroine thinks about mean girls / feels like she's in *Mean Girls*. **BMR**: 2010 p. 117 §3, 2011 p. 117 §1; **Crave**: p. 115 §15
351. Heroine has a feeling of impending doom. **BMR**: 2011 p. 296 §1; **Crave**: p. 50 §6
352. Heroine is a dork. **BMR**: 2011 p. 41 §9; **Crave**: p. 44 §11
353. Heroine is called cherie / cher by a supernatural who speaks French. **BMR**: 2013 p. 275 §6, p. 386 §4, p. 400-417 §4; **Covet**: p. 447 §10
354. Heroine is called "child" by the high priestess / Bloodletter character (parallel characters = grandmother of heroine). **BMR**: 2013 p. 429 §3; **Covet**: p. 103 §4

355. Heroine is called ‘little girl’ by the vampire prince / vampire king. **BMR:** 2014 p. 323 §1;
Crush: p. 636 §13

356. Heroine is called daughter by the magical being of the forest. **BMR:** 2013 p. 222 §2; **Covet:**
p. 262 §12

357. Heroine is told there is more to her than meets the eye. **BMR:** 2011 p. 567 §3; **Covet:** p. 595
§10

358. Heroine believes she is half human once she thinks she has only one magical/ supernatural
parent. **BMR:** 2013 p. 344 §6; **Covet:** p. 431 §6.

359. Aunt and mom/ mom and dad frequently talking and arguing about her. **BMR:** 2011 p. 65
§7, 2012 p. 64 §3; **Covet:** p. 601 §8.

360. Heroine wanted her family to tell her everything about herself and the magical world.
BMR: 2013 p. 361 §7; **Covet:** p. 602 §12.

361. Heroine old enough to know the truth. **BMR:** 2013 p. 91 §3; **Covet:** p. 602 §7

362. Heroine felt out of touch and out of place her whole life. **BMR:** 2011 p. 448 §4; 2012 p. 81
§3; 2013 p. 89 §3; **Covet:** p. 600 §11.

363. Heroine is a queen. **BMR:** 2012 p. 486 §8; **Covet:** p. 610 §9.

364. She has magic in her veins / blood. **BMR:** 2011 p. 440 §4; **Court:** p. 477 §3

365. She is magical being made of magic. **BMR:** 2011 p. 463 §1; 2010 p. 375 §1; **Covet:** p. 398
§12-§13.

366. The heroine is a creature who has one parent who is a witch and one who is a werewolf
(BMR)/one parent who is a witch and one who is a gargoyle (Crave series), and their
supernatural kind brings balance to the world. **BMR:** 2016 p. 4 §5 (balance); 2016 p. 104

- §1 (liaisons), 2012 p. 216 §3, 2013 p. 222 §4; **Covet**: p. 397 §7 - p. 397 §10, p. 111 §15 - p. 112 §1, p. 395 §8.
367. The heroine has the ability to hold / balance both Shadows and Light / Chaos and Order: within her. **BMR**: 2014 p. 357 §6, 2013 p. 220 §3; **Covet**: p. 398 §12.
368. Others describe the heroine as beautiful/ strong/ smart. **BMR**: 2010 p. 53 §4, 103 §9; 2011 p. 69 §8; **Covet**: p. 423 §1.
369. The heroine takes advanced classes. **BMR**: The Plot Notes 2008 p. 2 §2; 2011 p. 29 §2, p. 39 §5; **Crave**: p. 25 §1, p. 226 §1, p. 247 §3.
370. She loves books. **BMR**: 2013 Chapter Outline to Emily Sylvan Kim p. 2 §5; 2011 p. 10 §5, p. 464 §6, p. 385 §9; 2013 p. 34 §2, p. 117 §1; **Crave**: p. 91 §7, p. 93 §3, p. 197 §13, p. 252 §2; **Covet**: p. 382 §3.
371. The heroine talks about literature and philosophy. **BMR**: 2011 p. 40 §6 - §7, p. 464 §4; 2012 p. 4 §5; 2012 p. 4 §5; **Covet**: p. 382 §3.
372. She talks about French philosophers (Descartes/ Sartre). **BMR**: 2013 p. 262 §2; **Covet**: p. 384 §6.
373. She argues with her best male friend about philosophy. **BMR**: 2012 p. 89 §6, 2013 p. 97 §4; **Covet**: p. 384 §6, p. 530 §3- §4.
374. She quotes literature. **BMR**: 2011 p. 264 §1; 2012 p. 4 §5; **Covet**: p. 201 §13, p. 383 §2.
375. Heroine quotes Shakespeare “Et tu, Brute?” **BMR**: 2010 p. 30 §6, 2011 p. §6; **Crave**: p. 161 §3.
376. She is not a good liar. **BMR**: 2011 p. 302 §4; **Crush**: p. 87 §3.
377. She is sometimes shy. **BMR**: 2011 p. 13 §4; 2013 p. 157 §7; **Crave**: p. 227 §5, p. 263 §9.
378. She babbles when nervous. **BMR**: 2011 p. 36 §1, p. 52 §5; **Crave**: p. 126 §5.

379. She is tongue-tied around the romantic lead. **BMR**: 2011 p. 121 §8; **Covet**: p. 281 §20, p. 282 §1.

380. When the heroine is embarrassed, she ducks her chin/ head. **BMR**: 2011 p. 35 §5, p. 168 §7, p. 176 §7, p. 301 §1, p. 419 §2; **Crave**: p. 18 §2, p. 227 §6, p. 10, p. 199 §10.

381. She feels the weight of people staring at her at school. **BMR**: 2010 p. 79 §8, 2011 p. 102 §4; **Crave**: p. 75 §11- p. 76 §1.

382. She is uncomfortable with people watching her. **BMR**: 2011 p. 315 §5; **Crave**: p. 17-18 §9.

383. Heroine wants to fit in and not stand out but it does not work. **BMR**: Midnight Overview Notes, 2009 p. 1 §5; 2011 p. 146 §2; **Crave**: p. 160 §1, p. 222 §9.

384. Heroine recalls driving lessons/ test and which way to turn while spinning out of control. **BMR**: p. 463 §2; **Crush**: p. 617 §2.

385. Heroine wears her emotions and worries others can see. **BMR**: The Cast Notes, 2008 p. 1 §2; 2010 p. 125 §4; 2011 p. 261 §5; **Crave**: p. 249 §5; **Covet**: p. 455 §11.

386. She does not want to be protected and tells romantic lead. **BMR**: 2011 p. 226 §3, p. 600 §10, 2013 p. 367 §3; **Crush**: p. 28 §9, p. 431 §14.

387. Heroine is not scared of the romantic lead's power. **BMR**: 2010 p. 220 §9; 2011 p. 286 §11; **Crave**: p. 371 §4.

388. She loves Mexican food from her favorite local place. **BMR**: 2011 p. 514 §2; **Crush**: p. 210 §6 - p. 211 §2.

389. Halloween is the heroine's / heroine's Uncle's favorite holiday. **BMR**: 2011 p. 133 §7; **Crave**: p. 211 §8.

390. She says tea is the drink of choice in her family / at her house. **BMR**: 2010 p. 213 §2; **Crave**: p. 214 §7.

391. Heroine's Aunt/ mom made herbal blends, and is a herbalist. **BMR:** 2011 p. 74 §4, p. 91 §4 - §6, p. 184 §2, p. 208 §5; **Crave:** p. 214 §7.
392. Tea is used to bind the heroine's powers. **BMR:** Midnight Overview Notes 2009 p. 1 §7; 2010 p. 69, 162, 299; 2011 p. 75, 448; 2012 p. 71, 81-84, 212-214; 2013 p. 89-92, 294, 295; **Court:** p. 448 §10.
393. She eats yogurt in the cafeteria. **BMR:** 2011 p. 102 §1; **Crush:** p. 385 §3.
394. She eats an apple between classes. **BMR:** 2011 p. 98 §4; **Covet:** 163 §13.
395. She loves homemade chocolate chip cookies. **BMR:** 2011 p. 66 §4; **Covet:** p. 125 §4, p. 250 §10.
396. She likes tea and cookies. **BMR:** 2011 p. 74 §1; **Covet:** p. 44 §9.
397. She is the protector of all creatures, humans: the balance. **BMR:** 2012 p. 197 §4, p. 385 §4; **Crush:** p. 219 §9, p. 220 §1.
398. She calls romantic lead nicknames in her head. **BMR:** 2011 p. 20 §1, p. 507 §5, 2012 p. 19 §7; **Crave:** p. 32 §2, p. 34 §5.
399. She gives other characters nicknames in her head, such as the hulk (**BMR:** 2013 p. 59 §8; **Covet:** p. 179 §14), Fire Girl/ Fire Boy (**BMR:** The Cast Notes, 2008 p. 6 §3; **Covet:** p. 181 §3 p. 267 §12), Big Bad and Bald/ Big and Bigger (**BMR:** 2013 p. 308 §6; **Covet:** p. 591 §1).
400. She vomits words. **BMR:** 2011 p. 52 §10; **Covet:** p. 52 §5.
401. Feels like she is in a Superman Lois Lane movie. **BMR:** 2011 p. 484 §1; **Covet:** p. 282 §1.
402. Feels like she's in a horror movie. **BMR:** 2013 p. 170 §5, p. 204 §1, p. 397 §1; **Crave:** p. 13 §8, p. 119 §6, p. 324 §2.

403. The hair on the back of her neck prickles/ stands up when being watched. **BMR**: 2011 p. 3 §8; **Crave**: p. 40 §3, p. 126 §6.
404. Heroine existence is of unique/ utmost importance. **BMR**: 2011 p. 268 §6; 2012 p. 216 §1; **Covet**: p. 112 §9.
405. Heroine's supernatural purpose is to bring balance. **BMR**: 2013 p. 220 §3; 2012 p. 216 §3; 2013 p. 90 §3; **Covet**: p. 398 §11, p. 395 §8; §12; **Crush**: p. 242 §9.
406. Heroine was born as a result of this need for balance. **BMR**: 2012 p. 216 §5 - p. 217 §4; **Covet**: p. 396 §4.
407. Supernaturals at odds with one another. **BMR**: 2013 p. 335 §3; 2011 p. 230 §7; **Covet**: p. 394 §6.
408. When the heroine is bit by a werewolf, the heroine worries that she will become half werewolf, werebear / weregoyle. **BMR**: 2012 p. 335 §7, 2013 p. 321 §1; **Crush**: p. 95 §3.
409. The heroine is worried she will be a Frankenstein creation at the climax of the story when kidnapped. **BMR**: 2012 p. 474 §2; **Crave**: p. 485 §3.
410. During winter in Alaska the heroine steps through a door in a room that leads into a place that is summer. **BMR**: 2011 p. 492 §7; **Crush**: p. 150 §7.
411. The heroine describes the place that she arrives at when she walks through the door as sunny with summer meadow/ wildflowers. **BMR**: 2013 p. 204 §8; **Crave**: p. 566 §10.
412. There are magical objects that must be found to stop war, no matter the cost. **BMR**: 2011 p. 289 §2; 2012 p. 218 §11; **Covet**: p. 386 §5.
413. Heroine needs Compact / Crown to restore balance. **BMR**: 2012 p. 217 §2; **Covet**: p. 119 §10.

414. Heroine does not take sides/ can't be swayed by either side. **BMR:** p. 2013 p. 345 §1;
Covet: p. 398 §11.
415. The world is out of balance causing storms. **BMR:** 2013 Chapter Outline to Emily Ch. 43 p.
22 §3; 2012 p. 13 §6 - p. 14 §1, p. 217 §2; 2014 p. 272 §3; **Covet:** p. 112 §1.
416. Very few of the heroine's kind walk the earth. **BMR:** 2013 Chapter Outline to Emily Sylvan
Kim p. 22 §4; 2011 p. 462 §6; 2012 p. 385 §4; **Crave:** p. 399 §5
417. Heroine's kind were wiped out nearly extinct/ genocide. **BMR:** 2013 p. 354 §6; 2012 p.
387 §8; **Covet:** p. 396 §2, p. 399 §10.
418. Heroine questions how this could happen and is told it was because of betrayal. **BMR:** 2011
p. 464 §9-§10; 2012 p. 387 §8- §9; **Covet:** p. 399 §10 - p. 400 §1.
419. The betrayal was due to mixed marriage and a secret/ spell was given resulting in the
heroine's kind being wiped out. **BMR:** 2011 p. 464 §9-§10, p. 465 §1; 2012 p. 387 §8;
Covet: p. 400 §5-§6.
420. Heroine is a lantern/ beacon in the supernatural world. **BMR:** 2012 p. 214 §8; 2013 p. 218
§10; **Covet:** p. 398 §12
421. She is the most powerful/ first of her kind in ten generations/ a thousand years. **BMR:** 2012
p. 207 §7; 2013 p. 213 §1; **Covet:** p. 50 §17.
422. She seems immune to magic. **BMR:** 2013 Chapter Outline to Emily Sylvan Kim p. 14 §3;
2011 p. 531 §6; **Crush:** p. 254 §9 - p. 155 §2.
423. Heroine's magical tattoos are spells. **BMR:** 2011 p. 470 §3; **Covet:** p. 554 §2.
424. The heroine's magical tattoos that swirl and dance. **BMR:** 2011 p. 362 §7; **Covet:** p. 605
§7.

425. Heroine's tattoos light up and she feels tiny pin/ needle pricks. **BMR**: 2011 p. 436 §6;

Covet: p. 623 §3.

426. Heroine's tattoos burn and itch. **BMR**: 2011 p. 469 §4 - p. 470 §3; **Covet**: p. 654 §3.

427. Heroine feels like she's on fire when her tattoos begin using magic. **BMR**: 2011 p. 388 §8;

Covet: p. 603 §12.

428. Heroine's tattoos absorb magic from other supernatural beings. **BMR**: 2013 p. 307 §3, p.

312 §1 p. 362 §8; **Covet**: p. 603 §15, §16.

429. Heroine smells like a supernatural being. **BMR**: 2014 p. 329 §6; **Covet**: p. 229 §2.

430. Heroine lights the candles all at once with magic. **BMR**: 2016 p. 98 §1; **Crush**: p. 266 §9.

431. Heroine's grandmother is the daughter of a deity. **BMR**: 2016 p. 104 §7 p. 105 §1; 2013 p.

90 §3; **Covet**: p. 392 §5.

432. The heroine is told about Ancient Gods/ twin goddess Creation Story and that she is the

descendent of one of them. **BMR**: 2016 p. 104 §1; 2016 p. 4 §5; **Covet**: p. 397 §7 - p.

398 §11

433. Heroine is a semi-goddess/ demi-god. **BMR**: 2016 p. 91 §1 (Demi-goddess); Email

produced by Lynne Freeman depicting an email from Freeman to KIM: LF 037798 p. LF

037802 §7 KIM00145625; **Court**: p. 165 §4.

434. Heroine is told about the God of Chaos. **BMR**: 2016 p. 101 §10; **Court**: p. 159 §12.

435. Heroine hears a voice in head and feels like there are two of her/ the voice is separate from

her. She thinks its crazy she hears it. **BMR**: 2011 p. 430 §6; **Crave**: p. 418 §5.

436. Heroine wonders if the voice is wolf half /witch half, must be something more. **BMR**: 2011

p. 456 §7; **Crave**: p. 484 §2-§3.

437. The voice inside her warns her to get away, run. **BMR**: 2011 p. 472 §2; **Crave**: p. 233 §5, §6, §7.
438. During the climax of the story with vampire prince/ vampire prince's mate, the heroine's voice is missing/ deserted/ absent. **BMR**: 2011 p. 543 §1; 2012 p. 462 §2; 2013 p. 398 §1; **Crave**: p. 463 §6.
439. The second voice in the heroine's head is Ronan/ Hudson and once he is released into the world she can no longer hear him. **BMR**: 2011 p. 595 §1; **Crush**: p. 155 §3.
440. The first voice in the heroine's head is her father, immortal abomination/ grandfather the Unkillable Beast. **BMR**: 2012 p. 467 §4, 2011 p. 577 §5 - p. 578 §3; **Crush**: p. 541 §2.
441. The first voice in the heroine's head speaks Gaelic. **BMR**: 2010 p. 233 § 2-12, 234 §1, §2, 2011 p. 577 §5 - p. 578 §4; **Court**: p. 34 § 4, p. 37 §4, p. 45 §6.
442. The romantic lead wants to protect the heroine, while the second love interest (Ronan/Hudson or the second voice in the heroine's head) wants to help the heroine stand on her own. **BMR**: The World Notes 2010; **Covet**: p. 194.
443. The heroine learns about the “watch” or the “watchers” who are the “magical police” that will harm her. **BMR**: 2016 p. 80; **Covet**: p. 135.
444. Heroine goes to a place that is like a “planetarium.” **BMR**: 2016 p. 98; **Crush**: p. 506.

Facts relevant to the accident involving the Heroine's family members:

445. Accident caused family members' deaths. **BMR**: 2011 p. 76 §4; **Crave**: p. 331 §7.
446. In *Crave*, her parents are killed in the crash. **Crave**: p. 15, 331. In *BMR*, everyone believes her father and grandparents are killed in the crash. **BMR**: 2011 p. 76.

447. The heroine tries to blot out the accident / won't let herself dwell on her loss. **BMR:** 2010 p. 9; 2011 p. 12; **Crave:** p. 5.

448. The accident was in an elevator car / car that fell and crashed. **BMR:** 2010 p. 100-101; **Crave:** p. 5.

449. The heroine had a fight with her family members right before the accident and feels guilty. **BMR:** 2010 p. 100-101; **Crave:** p. 45.

450. Heroine is haunted by her memories of what happened that day of the accident that killed her family. **BMR:** 2010 p. 9; **Crave:** p. 390.

451. She is grieving the loss of her family members and it is on her mind throughout the story. **BMR:** 2011 p. 34; **Crave:** p. 252.

452. Heroine has panic attacks from the trauma of losing her family members. **BMR:** The World Notes 2010, 2011 p. 79, 524; **Crave:** p. 15; **Crush:** p. 123.

453. Heroine believes her grandparents are also dead. **BMR:** 2011 p. 12; **Court:** p. 37.

454. Heroine's family members were actually murdered by the vampire prince / vampire prince's mate. **BMR:** 2010 p. 443; **Crave:** p. 483-484.

455. The heroine feels fury / rage and hot fire deep within/inside her when she learns her family was murdered. **BMR:** 2010 p. 446 §3; **Crave:** p. 477 §6

Facts relevant to the heroine's panic attacks:

456. Heroine has panic and anxiety from the loss of family. The World Notes 2010, **BMR:** 2011 p. 524 §1; **Crave:** p. 15 §4

457. Avoids feelings of fear and panic, locks them in a box. **BMR:** 2011 p. 474 §3; **Covet:** p. 65-66 §9.

458. Avoids feelings of anxiety, pushes/ shoves them down. **BMR:** 2011 p. 34 §4; **Crave:** p. 28 §9
459. Heroine wraps her arms around herself when feels panic. **BMR:** 2012 p. 188 §1; 2013 p. 192 §6; **Covet:** p. 113 §12
460. Anxiety is like weight on her chest. **BMR:** 2011 p. 337 §4; **Covet:** p. 158 §13.
461. Anxiety causes her voice to be thin. **BMR:** 2013 p. 306 §5; **Covet:** p. 158 §14, p. 159 §1.
462. Heroine's hands shake badly, heart pounds in chest. **BMR:** 2013 p. 356, §5, 2012 p. 7, §4, 2014 p. 7, §6; **Covet:** p. 320 §1, p. 622, §13 p. 623 §1
463. Heroine's mouth feels stuffed/ full of cotton. **BMR:** 2013 p. 148, §8, 2014 p. 51, §5; **Covet:** p. 103 §5.
464. Heart drops down to feet. **BMR:** 2011 p. 199 §5; **Crave:** p. 289 §14.
465. Olympic gymnastics/ gymnast at the Olympics. **BMR:** p. 101 §2; **Covet:** p. 446 §6.
466. Throat is tight/ has to get words out. **BMR:** 2011 p. 31 §3; **Crave:** p. 139 §2.
467. Heroine uses breathwork to manage anxiety. **BMR:** 2013 p. 332 §9, 2013 p. 463 §8, 2011 p. 369 §6, 2012 p. 291 §1, 2012 p. 171 §1; **Covet:** p. 1 §9, p. 91 §11, p. 167 § 6, p. 304 §7, p. 305 §1.

Facts relevant to the heroine's conversation regarding father's stone amulet / father's rune stones:

468. Aunt/ Uncle explains father's stone amulet/ father's rune stones. **BMR:** 2011 p. 80 §1-§2, p. 439 §7; **Covet:** p. 423 §14.

469. Description of stone amulet/ rune stones and from father. **BMR:** 2011 p. 80 §1-§2; **Covet:** p. 423 §8.

470. Meaning of stones. **BMR:** 2011 p. 80 §4, p. 81 §1; **Covet:** p. 423 §9.

471. Heroine is sick with emotion during the conversation about her father. **BMR:** 2011 p. 81 §2; **Covet:** p. 424 §1.

472. Aunt/ Uncle warns the heroine not to take off amulet/runes. **BMR:** 2011 p. 81 §5; **Covet:** p. 424 §10.

473. Heroine's Aunt/Uncle not forthcoming when approached about the amulet. **BMR:** 2011 p. 81 §4; **Covet:** p. 424 §12

Facts relevant to the scene when the heroine asks the romantic lead to show her how to shift:

474. Heroine asks the romantic lead how to shift forms. **BMR:** 2011 p. 459 §3, 2013 p. 352 §5; **Crush:** p. 296 §6.

475. The romantic lead tells her it's not hard/ she's trying too hard. **BMR:** 2011 p. 459 §4; **Crush:** p. 297 §2.

476. Romantic lead assures her that her supernatural half is part of her. **BMR:** 2011 p. 456 §2; **Crush:** p. 297 §2.

477. There is a shimmer and air when a shift occurs. **BMR:** 2012 p. 383; 2013 p. 352 §12, p. 454 §6; **Crush:** p. 283 §8.

478. Ronan wipes tears from the heroine's cheek with his thumb and licks it / romantic lead wipes blood from her cheek with his thumb and sucks it. **BMR:** 2011 p. 594 §2; **Crave:** p. 61 §14- §15, p. 62 §1- §3

Facts relevant to heroine's feelings towards romantic lead:

479. Heroine can't look away from the romantic lead the first time she sees him. **BMR:** 2011 p.

16 §5; **Crave:** p. 21 §10

480. Heroine is drawn to the romantic lead, especially the danger of him. **BMR:** 2011 p. 127 §3;

Crave: p. 127 §7

481. Heroine is irritated by the effect he has on her, the romantic lead is unattainable, and refusal

to like the romantic lead. **BMR:** 2011 p. 20 §6, Midnight Overview Notes 2008 p. §1

(unattainable); **Crave:** p. 23 §1-§5

482. Heroine quotes Shakespeare and she is irritated with him when they first meet. **BMR:** 2011

p. 40 §6 (Julius Caesar); **Crave:** p. 24 §9, 25 §1 (Hamlet)

483. Heroine is upset that the romantic lead wins verbal repartee between them during the first

day they meet. **BMR:** 2011 p. 53 §10-§11; **Crave:** p. 27 §9

484. Heroine is left wondering about the romantic lead, why. **BMR:** 2011 p. 63 §3-§4; **Crave:** p.

64

485. She wonders if the romantic lead can hear her heart: My heart, in my chest, he can hear it.

BMR: 2011 p. 259 §5; **Covet:** p. 132 §16

486. The heroine admits she's obsessing over the romantic lead. **BMR:** 2011 p. 17 §7; **Crave:**

p. 39 §5

487. The heroine has word vomit and babbles / vomits words and babbles. **BMR:** 2011 p. 52 §5;

Covet: p. 52 §5

488. Heroine presses her face on the skin / curve of his neck and breathes romantic lead in. **BMR:**

p. 2011 p. 414 §6, 2013 p. 352 §14 p. 353 §1; **Crave:** p. 165 §12 p. 166 §1

489. Heroine is with the romantic lead and it feels like coming home and familiar. **BMR:** 2013 p. 206 §4-p. 207 §1; **Covet:** p. 207 §7
490. An invisible string connects the heroine and romantic lead. **BMR:** 2016 p. 99 §9; **Covet:** p. 31 §4.
491. The heroine feels grounded, touching the romantic lead's hands. **BMR:** 2013 p. 333 §4; **Covet:** p. 478 §3.
492. The heroine is selfish about the romantic lead and she doesn't want to be without him. **BMR:** 2014 p. 388 §7; **Crave:** p. 508 §1
493. Heroine is irritated with the romantic lead for treating her like a child. **BMR:** 2011 p. 369 §8; **Covet:** p. 59 §2.
494. Heroine doesn't like being treated like a child. **BMR:** 2013 p. 67 §8; **Covet:** p. 59 §2.
495. Heroine describes how: Our eyes meet and the world falls / drops away. **BMR:** 2012 p. 24 §2, **BMR:** 2013 p. 26 §2- §3; **Crave:** p. 143 §9.
496. Heroine wonders if the romantic lead is an alien. **BMR:** 2011 p. 193 §3; **Crave:** p. 260 §8.
497. Heroine experiences circuit overload / short circuit regarding the romantic lead. **BMR:** 2011 p. 36 §3; **Crave:** p. 161 §1.
498. Romantic lead makes the heroine feel like spontaneous combustion. **BMR:** 2010 p.218 §3, 2011 p.282 §2, 2016 p. 19 §5; **Crave:** p. 170 §9.
499. Heroine feels that romantic leads thoughts are an echo of hers. **BMR:** 2013 p. 118 §5; **Crave:** p. 205 §1.
500. Heroine feels they are drawn together by fate. Destiny. **BMR:** 2012 p. 112 §5, **BMR:** 2013 p. 116 §9; **Covet:** p. 186 §10.

501. Heroine feels the romantic lead is her destiny. **BMR:** 2013 p. 245 §9 p. 461 §2, **BMR:** 2011 p. 222, §3; **Covet:** p. 245 §10.

502. Heroine thinks I'm in way over my head about romantic lead. **BMR:** 2011 p. 121 §8; **Crave:** p. 177 §1.

503. Heroine thinks they have a soul connection. **BMR:** 2011 p. 192 §2; **Crave:** p. 174 §10.

504. Heroine feels electricity: in my skin, around the romantic lead. **BMR:** 2011 p. 54 §4, p. 331 §7; **Crave:** p. 292 §4.

505. Her mouth is so /goes dry around the romantic lead. **BMR:** 2013 p. 155 §4; **Crave:** p. 139 §2.

Facts regarding the romantic lead, Ash (BMR)/ Jaxon (Crave):

506. The romantic lead is a supernatural being. **BMR:** 2011 p. 236 §4; **Crave:** p. 313 §12

507. He becomes the heroine's boyfriend. **BMR:** 2011 p. 271 §1; **Crave:** p. 275 §12; **BMR:** 2011 p. 467 §8; **Crave:** p. 414 §1

508. He grins as if he knows exactly what effect / kind of effect he has on the heroine during their first meeting. **BMR:** 2011 p. 16 §6; **BMR:** 2013 p. 20 §2; **Crave:** p. 22 §3

509. Heroine thinks there is something different about him, magnetism. **BMR:** 2011 p. 82 §4; **Crave:** p. 21 §4, 10

510. He is striking, full red lips, chiseled features, beautiful. **BMR:** 2011 p. 15 §5, p. 16 §3, p. 17 §7; **Crave:** p. 21 §9.

511. His eyes are a notable feature. **BMR:** 2011 p. 40 §4; **Crave:** p. 21 §9

512. He has gemstone eyes. **BMR:** 2011 p. 6 §5, p. 16 §5; **Crave:** p. 21 §9

513. He has flecks of gold / silver in his eyes. **BMR:** 2016 p. 92 §5; **Crave:** p. 29 §10

514. He has a hypnotic effect on the heroine. **BMR:** 2011 p. 55 §1; **Crave:** p. 21 §10
515. The romantic lead has gemstone eyes and the heroine can't look away from his stare. **BMR:** 2011 p. 16; **Crave:** p. 21
516. The romantic lead has a hypnotic effect on the heroine and she has to remind herself to breathe / catch her breath when their gaze collides. **BMR:** 2010 p. 42; **BMR:** 2011 p. 55; **BMR:** 2013 p. 21-22; **Crave:** p. 21-22
517. On the day the heroine and romantic lead first meet, he is wearing black jeans and a t-shirt. **BMR:** 2011 p. 20; **BMR:** 2010 p. 20; **Crave:** p. 22, 86.
518. He has full red lips, chiseled features, dark hair, is lean and muscled, tall, and his smile turns the corner of his mouth up with a twist of his lips. **BMR:** 2011 pp. 15-17; **Crave:** p. 21 (has full red lips, sun-kissed skin, defined jaw, and beautiful). **BMR:** 2010 p. 96, 2011 p. 157; **Crave:** pp. 127, 165 (crooked grin). **BMR:** 2011 p. 109; **Crave:** p. 385 (corner of his mouth turns up). **BMR:** 2011 p. 314; **Crave:** p. 259 (twist of his lips).
519. He wears designer clothes and black v-neck sweaters. **BMR:** 2011 p. 20, **Crave:** p. 86 (designer clothing). **BMR:** 2010 p.16; **Crave:** p. 86 (black v-neck sweaters).
520. His gaze collides with the heroine's; catch her breath / remind herself to breathe. **BMR:** 2014 p. 17 §1-3; **Crave:** p. 21 §10 - p. 22 §1
521. He is right in front of the heroine. He affects the heroine so that she has to tear / rip her eyes away from him. **BMR:** 2011 p. 17 §1-4; **Crave:** p. 22 §6-8
522. He is wicked, dangerous, sexy, wild. **BMR:** 2011 p. 20 §5 (sexy), p. 16 §6 (wicked), p. 186 §1 (wild), (**BMR:** 2014 p. 19 §1 (wild), p. 53 §13 (dangerous), p. 127 §3 (dangerous), p. 251 §2 (dangerous), p. 286 §6 (dangerous); **Crave:** p. 22 §10 (wicked, wild), p. 137 §9 (dangerous), p. 224 §8 (dangerous), p. 86 §6 (sexy)

523. Heroine notices while in the classroom / school cafeteria that the romantic lead is bleeding, he makes light of it. **BMR:** 2011 p. 110 §3 - p. 111 §1; **Crave:** p. 331 §2-10
524. Romantic lead touches the heroine's face reverently. **BMR:** 2012 p. 221 §5; **Crave:** p. 439 §4
525. His scent is of citrus and spice and waterfalls / is of orange and freshwater. **BMR:** 2011 p. 460 §8; **Crave:** p. 435 §4
526. Heroine notices the dark current / dark water scent of him. **BMR:** 2011 p. 256 §8; **Crave:** p. 141 §4
527. His warm breath against the heroine's ear, and his scent wraps itself around her. **BMR:** 2011 p. 172 §9 - p. 173 §1; **BMR:** 2010 p. 136 §8; **Crave:** p. 141 §3-4
528. Romantic lead is intense, dominant. **BMR:** 2011 p. 182 §4; **BMR:** *Midnight Overview Notes 2009* p. 2 §1; **Crave:** p. 24 §1 (dominant); **Crave:** p. 175 §9 (intense)
529. His pupils are dilated / blown out around the heroine. **BMR:** 2011 p. 169 §4; **Crave:** p. 378 §13
530. He gives the heroine a mock bow. **BMR:** 2011 p. 37 §2; **Crave:** p. 392 §6
531. Heroine calls him “tall, dark” nicknames in her head. **BMR:** 2011 p. 20 §1; **BMR:** 2012 p. 19 §7; **BMR:** 2011 p. 507 §5; **Crave:** p. 32 §2; **Crave:** p. 34 §5
532. Heroine also calls him “pants” nicknames her head. **BMR:** 2011 p. 40 §7, p. 321 §6 (Smartypants); **BMR:** 2011 p. 25 §8, p. 51 §8 (Hunkypants); **BMR:** 2011 p. 29 §2 (Hotpants); **Covet:** p. 667 §11
533. He’s a dark / fallen angel, bad-boy. **BMR:** 2011 p. 222 §2 (dark angel); **BMR:** *Midnight Overview Notes 2009* p. 2 §1 (bad-boy); **BMR:** 2010 p. 32 §5 (bad-boy); **Crave:** p. 30 §5 (fallen angel, bad-boy)

534. Romantic lead moves with a sinuous / languid grace: moved...all...grace. **BMR:** 2011 p. 185 §5; **Crave:** p. 86 §8-10
535. He tries to give the heroine the impression he doesn't have feelings for her, which irritates her. **BMR:** *Chapter Outline to Emily Sylvan Kim, Chapter 2, 2013* p. 2 §5; **BMR:** *Midnight Overview 2009* p. 2 §2; **BMR:** 2013 p. 114 §5; **Crave:** p. 27 §9-10
536. Romantic lead has different moods each time he sees the heroine. **BMR:** 2010 p. 91 §4; **Crave:** p. 90 §3
537. Romantic lead has tried to stay away because he doesn't think it's safe for the heroine to be around him. **BMR:** 2011 p. 297 §2, p. 321 §10, 322 §1; **BMR:** 2014 p. 99 §1-2; **Crave:** p. 398 §7, 399 §1
538. Romantic lead tells the heroine they need to stay away from each other. **BMR:** 2011 p. 297 §2, 299 §1; **Crave:** p. 291 §9-10
539. Romantic lead says "but I'm selfish" not to stay away from the heroine. **BMR:** 2010 p. 233 §9; **BMR:** 2011 p. 299 §1; **Crave:** p. 562 §4
540. Romantic lead tells the heroine he won't hurt her. **BMR:** 2011 p. 172 §4; **Crave:** p. 372 §8
541. He is bossy to the heroine. **BMR:** 2010 p. 374 §2; **Crave:** p. 190 §4
542. Romantic lead is a leader and he is "given a wide berth". **BMR:** *The Cast, 2008* p. 3 §4; **Crave:** p. 135 §13, p. 136 §1; **Crush:** p. 62 §6
543. Romantic lead offers food / gets her food; "I don't know what you like" coffee...I don't know what you likebottle of...water. **BMR:** 2010 p. 173 §1-2; **Crave:** p. 188 §15, p. 189 §8
544. The second kiss between heroine and romantic lead: heroine moves in to kiss romantic lead but he doesn't respond, she is embarrassed. **BMR:** 2013 p. 208 §1-3; **Crave:** p. 378 §3-5

545. Their fingers are laced and he pulls the heroine towards him. **BMR:** 2013 p. 208 §5; **Crave:** p. 378 §8
546. Romantic lead / heroine is concerned about walking away and not experiencing what they have. **BMR:** 2013 p. 223 §6; **Crave:** p. 379 §4
547. They kiss and he groans low in his throat. **BMR:** 2013 p. 225 §4; **Crave:** p. 383 §4
548. Romantic lead explains he had trouble with self-control of his powers around the heroine. **BMR:** 2013 p. 202 §6; **Crave:** p. 383 §10
549. Romantic lead thinks that he and the heroine are bonded, mates. **BMR:** 2011 p. 423 §7-8, p. 424 §1, p. 495 §7, p. 182 §5; **Crave:** p. 546 §6
550. He blames himself for the heroine being in danger and almost getting killed. **BMR:** 2011 p. 601 §2-3; **Crave:** p. 490 §2-4, p. 501 §11 p. 502 §1, p. 507 §8
551. Romantic lead is grieving the murder of his older brother. He feels responsible. **BMR:** 2011 p. 125 §6-9; **BMR:** 2012 p. 110 §45; **Crave:** p. 129 §17-130 §6; p. 391 §8; p. 392 §10
552. Heroine can see the pain in his eyes about the murder of his brother. **BMR:** 2011 p. 125 §9; **Crave:** p. 397 §4- 398 §1
553. Romantic lead's older brother was nineteen / looks about nineteen. **BMR:** 2011 p. 125 §4; **Covet:** p. 448 §7
554. Romantic lead helps the heroine heal her emotional wounds from the loss of family members. **BMR:** *Overview Notes 2009* p. 2 §7; **Covet:** p. 194 §6
555. Romantic lead has a crooked grin, crooked smile. **BMR:** 2010 p. 96 §4, 2011 p. 157 §3; **Crave:** p. 22 §3, p. 126 §11- 127 §4, p. 165 §9, p. 216 §4; **Covet:** p. 87 §9
556. Romantic lead has a twist of his lips. **BMR:** 2011 p. 314 §3; **Crave:** p. 259 §7

557. Romantic lead doesn't like the heroine around Brendan / Flint. **BMR:** 2011 p. 164 §9, 2011 p. 166 §2; **Crave:** p. 156 §4, p. 157 §2-7, p. 158 §3
558. The romantic lead has power with his mind. **BMR:** 2011 p. 286 §2, p. 286 §7; **Crave:** p. 366 §1
559. He seems like he can fly to the heroine. **BMR:** 2011 p. 453 §7; **Crave:** p. 440 §6
560. He comes and goes so quickly, she can't hear him, it seems like he "vanishes". **BMR:** 2011 p. 451 §3; **Crave:** p. 292 §10
561. Romantic lead has the magical ability to "cast" / "fade" so that it looks like he can disappear. **BMR:** 2011 p. 485 §5, 2016 p. 5, 73, 87 §2; **Crush:** p. 135 §4, p. 135 §13; **Court:** p. 16, 58, 67, 117, 149, 246, 305, 352.
562. Romantic lead warns the heroine about things that go bump in the night. **BMR:** 2010 p. 185 §1; **Crave:** p. 198 §9
563. Heroine is drawn to the romantic lead, she responds to the danger inside him and likes it. **BMR:** 2011 p. 127 §3; **Crave:** p. 127 §7, p. 128 §4
564. Everything about romantic lead whispers / screams danger, the way he moves, the way he holds himself. **BMR:** 2011 p. 20 §6, p. 311 §7; **Crave:** p. 172 §12
565. Romantic lead is intriguing and terrifying to the heroine. **BMR:** 2011 p. 127 §3 (intriguing), 2011 p. 253 §6 (terrifying); **Crave:** p. 25 §4 (intriguing), p. 30 §6 (terrifying)
566. Heroine wants to be closer to the romantic lead but is afraid at the same time. **BMR:** 2011 p. 367 §7, 2011 p. 169 §7; *Midnight Overview Notes 2009* p. 2 §2; **Crave:** p. 258 §3
567. Romantic lead snaps his fingers to illustrate. **BMR:** 2012 p. 237 §9; **Crush:** p. 337 §3
568. Romantic lead's type of supernatural may be / is due to a genetic mutation. **BMR:** 2011 p. 186 §4; **Crave:** p. 349 §4

569. Romantic lead is physically punished as a consequence for transgressions by family / mother. **BMR:** 2010 p. 179 §5-180 §5; **Crave:** p. 505 §12

570. He tells the heroine that his kind heals quickly. **BMR:** 2010 p. 181 §2; **Crave:** p. 505 §12

571. He presses a kiss to the corner of the heroine's mouth. **BMR:** 2011 p. 562 §12; **Crave:** p. 523 §4

572. Romantic lead saves the heroine's life with his healing bite / venom. **BMR:** 2010 p. 329 §7; 2011 p. 425 §3; **Crave:** p. 319 §11

573. Romantic lead tells the heroine he loves her for the first time toward the end of the story after she's been kidnapped. **BMR:** 2014 p. 388 §1; **BMR:** 2011 p. 600 §5; **Crave:** p. 508 §6

574. He *winks* in italics. **BMR:** 2014 p. 167 §2-168 §6; **Crave:** p. 258 §6-259 §10

Facts regarding the first voice in heroine's head, Athair (Father) (BMR) / Alistair (Grandfather) (Crave):

575. The voice is in an iron trap against a tree/ in chains against a wall. **BMR:** 2011 p. 582 §2 - p. 584 §4; **Covet:** p. 121 §7.

576. When the heroine goes to visit the first voice, she goes through a portal / vortex and is falling, Falling through the portal to find father/grandfather. **BMR:** 2011 p. 205 §1, p. 578 §7 - p. 579 §1; **Crush:** p. 508 §8 - p. 509 §1.

577. The portal / vortex takes the heroine into the forest. **BMR:** 2011 p. 579 §1, 2010 p. 468 §1; **Crush:** p. 509 §7.

578. Heroine tells the trapped creature she is a friend. **BMR:** 2011 p. 584 §6; **Covet:** p. 650 §5.

579. When the heroine cannot free the trapped voice, she promises to come back. **BMR:** 2012 p.

513 §1, 2013 p. p. 442 §8; **Crush:** p. 546 §7- p. 547 §1.

580. Vampire prince/ vampire king did this to the trapped voice. **BMR:** 2011 p. 547 §2, World

Notes 2010: p. 1; **Covet:** p. 121 §7, p. 544 §1 p. 650 §3.

581. The iron trap/ chains have properties that keep the creature in his supernatural form. **BMR:**

2011 p. 583 §7 - p. 584 §1; **Crush:** p. 535 §6.

582. He is her father / grandfather. **BMR:** 2011 p. 578 §4; **Court:** p. 37 §4

583. Heroine describes the color of the eyes of the abomination (father) / Unkillable beast

(grandfather) as Smoky gray / Smoke-gray. **BMR:** 2011 p. 582 §3; **Covet:** p. 649 §13

584. He was presumed to be dead. **BMR:** 2011 p. 12 §3; **Court:** p. 37 §5

585. Athair / Alistair is the heroine's long-lost father / grandfather. His kind speaks Gaelic. **BMR:**

2010 p. 208 §3, p. 223 §3-10; **BMR:** 2011 p. 578 §4; **Court:** p. 34 §3-4, p. 37 §4, p. 95 §7, §9 , p. 45 §6

586. The heroine's father / grandfather's kind of supernatural being can communicate

telepathically. **BMR:** 2010 p. 373 §1; **Court:** p. 35 §9

Facts regarding the second voice in the heroine's head, Ronan (BMR)/Hudson (Crave):

587. He appears as a voice in the heroine's head. **BMR:** 2013 p. 464; **Crush:** pp. 153-154.

588. Heroine is in a state of shock when she first hears the second voice in her head. **BMR:** 2013

p. 464; **Crush:** p. 153-154.

589. He is royal. **BMR:** 2013 p. 447 §7; 2011 p. 592 §1; **Crush:** p. 258 §6.

590. He is part vampire / is a vampire. **BMR:** The World Notes, 2010 p. 2 §3; **Crush:** p. 548 §1.

591. He has a British accent. **BMR:** 2013 p. 452, 448, 2011 p. 592, 595; **Crush:** p. 584, 194.

592. He bites the heroine's lip during a kiss and tastes her blood. **BMR:** 2010 p. 484 §7-8; **Covet:** p. 352 §3.
593. He helps the heroine by giving her his magic. **BMR:** 2013 p.452 §1-8; **Crush:** p. 584 §3-6.
594. He is weakened/vulnerable. **BMR:** 2013 p. 452 §3; **Crush:** p. 584 §8.
595. The heroine notices his tender / troubled eyes. **BMR:** 2013 p. 452 §8; **Crush:** p. 584 §8.
596. He has powerful magical gifts. **BMR:** The World Notes, p.2 §3; **Crush:** p. 645, §2.
597. His name invokes fear. **BMR:** 2011 p. 432 §2; **Crush:** p.185 §6-7.
598. There is fear of him being in the world again. **BMR:** 2011 p.602 §6, p. 602 §10, p. 603 §2; **Crave:** p. 520 §7.
599. He has an accent. **BMR:** 2011 p. 592 §8 - p.593 §1; **Crush:** p. 194 §14.
600. Heroine finds him attractive, even though she is in love with the romantic lead. **BMR:** 2013 p. 448 §8, p. 449 §7, p. 450 §2-8; **Crush:** p. 156 §5, p. 157 §3-4, p. 157 §10.
601. Heroine doesn't remember him from the Otherworld/other plane. **BMR:** 2012 p. 521 §5-7, 2011 p. 594 §7 - p.595 §1, 2013 p. 450 §9, 2014 p. 363 §6-7; **Crush:** p. 291 §5, p. 292 §5-6, p. 293 §1.
602. Heroine feels uneasy / a little scared by their conversation, she wishes she could remember. **BMR:** 2012 p. 521 §1, 3-4, 2011 p. 594 §3-5, 2014 p. 363 §4; **Crush:** p.292 §7.
603. He is disappointed / his smile fades when the heroine doesn't remember him. **BMR:** 2012 p. 521 §5, 2011 p. 594 §6, 2014 p. 363 §4-5; **Crush:** p. 291 §6.
604. He is intended for / is part of a love triangle involving him, the heroine and the romantic lead. **BMR:** The World Notes, 2010 p.2 §5, **Covet:** p. 589, §4-6, **Covet:** p. 194, §7.
605. He is intended to be / is the heroine's true mate. **BMR:** 2011 p. 595 §3, 2013 p. 451 §10; **Covet:** p. 106 §1.

606. After Ronan / romantic lead kisses heroine the romantic lead / Hudson becomes jealous with waves of anger / sees red and his hands ball/curl into fists. **BMR**: 2010 p. 484 §9 (anger), p. 485 §1 (fists), p. 485 §2-7; **Crush**: p. 663 §5-8.
607. Ash / Jaxon helps the heroine heal her emotional wounds / depression from the loss of her family. **BMR**: Midnight Overview, 11-8-2009, p. 1 §7, p. 2 §3; **Covet**: p. 194 §6.
608. Ash / Hudson sees the heroine for who she really is. **BMR**: Midnight Overview, 11-8-2009, p. 2 §3; **Covet**: p. 194 §7.
609. He feels dangerous and scary. The heroine / heroine and romantic lead are scared of him. **BMR**: 2013 p. 465 §13 (scared), 2013 p. 448 §11 (dangerous), 2012 p. 519 §5 (dangerous); **Crush**: p. 121 §2-5 (scared), p. 156 §5-8 (dangerous).
610. Heroine notices his stormy blue eyes, and the depth of his blue storm at sea / oceanic eyes. **BMR**: p. 480 §4 (stormy blue eyes), p. 480 §5, 2011 p. 593 §6, p. 594 §2 (stormy blue eyes). **Covet**: p. 235 §1 (oceanic eyes); **Crush**: p.163 §7 (stormy blue eyes).
611. The heroine notices the runes while she is with him. **BMR**: 2010 p. 479 §7 (runes); **Covet**: p. 235 §5.
612. He is believed to be evil. **BMR**: 2012 p. 356 §1; **Crush**: p. 185 §5.
613. He is believed to be depraved and to have lost his sanity. **BMR**: 201 p. 434 §2; **Crush**: p. 217 §5 (depraved), p. 166 §8 (sanity).
614. Because he's said to be evil, the heroine feels she doesn't have a choice / doesn't trust him, and that she has no free will where he is involved. **BMR**: 2013 p. 465 §3-4; **Crush**: p. 371 §5.
615. He helps the heroine and she begrudgingly accepts his help / is furious. **BMR**: 2013 p. 465 §4-5; **Crush**: p. 371 §3-5.

616. The heroine is dizzy / weak and he carries her / he is strong. **BMR**: 2013 p. 466 §1-2;
Crush: p. 370 §12, p. 371 §1-2.
617. He was presumed dead but actually living in the Otherworld / other plane. **BMR**: 2011 p.
432 §3 (prophecy), 2011 p. 46 §7; **Crush**: p. 579 §2 (dead), p. 646 §8-10, p. 659 §6.
618. When the heroine is first introduced to him his voice is known / familiar to her. **BMR**: 2013
p. 464 §10; **Crush**: p. 153 §3.
619. The heroine is in a state of shock and can't breathe / tries to breath. **BMR**: 2013 p. 464 §14;
Crush: p. 154 §2-3.
620. He is able to take away a person's free will and their ability to choose, he can make people
do anything he wants. **BMR**: 2011 p. 432 §7; **Crush**: p. 371 §5, p. 121 §3-6.
621. He committed murder and is said to have been responsible for the deaths of many people.
BMR: 2012 p. 315 §1; **Crave**: p. 397 §4.
622. Slaughter of people / genocide. **BMR**: 2011 p. 46 §7, p. 602 §5; **Crush**: p. 217 §5.
623. A supernatural war and apocalypse is on the horizon if he is freed. **BMR**: 2013 p. 2013 §4
(end is near), 2013 p. 221 §3-6 (war and apocalypse); **Crush**: p. 256 §9-10, p. 257 §3
(apocalypse), p. 662 §15, p. 663 §1 (war).
624. He believed his actions were for the greater good. **BMR**: The World Notes, 2010 p. 2 §3;
Crush: p. 459 §2.
625. He isn't the evil guy he's rumored to be. **BMR**: The World Notes, 2010 p. 2 §3, 2014 p. 364
§3-4, 2013 p. 453 §6-7; **Crush**: p. 256 §10-12.
626. He has been trapped in another otherworld / other plane. **BMR**: 2011 p. 595 §1-3; **Crush**: p.
673 §4 (trapped), p. 667 §7 (separate plane).

627. Ronan / Hudson is tied to the heroine. **BMR**: 2013 p. 336 §2, 2010 p. 488 §12; **Crush**: p. 124 §8 - p. 125 §9.
628. Heroine realizes she has brought him back with her from the Otherworld / other plane. **BMR**: 2013 p. 451 §5, p. 462 §9, 2011 p. 603 §6-10, p. 603 §2; **Crush**: p. 27 §1, p. 122 §2-7.
629. Heroine panics at the realization that she's brought him back. **BMR**: 2011 p. 598 §1; **Crush**: p. 123 §4.
630. Heroine feels if she had been told the truth about everything, he wouldn't be free. **BMR**: 2013 p. 462 §6-9; **Crush**: p. 128 §6-7.
631. He has dark hair. **BMR**: 2010 p. 480 §4; **Crush** : p. 156 §2.
632. He's tried to warn the heroine and help her. **BMR**: 2010 p. 482 §7, 2011 p. 595 §1; **Crush**: p. 161 §14-15, p. 493 §4.
633. The heroine frees him from an iron trap / from cuff restraints, he releases a piercing howl/bellow. **BMR**: 2011 p. 584 §4-6, p. 585 §9; **Covet**: p. 649 §6-11.
634. He shifts and turns into a man. **BMR**: 2011 p. 591 §3; **Covet**: p. 649 §12.
635. The heroine notices he's wearing a tunic and old-fashioned clothing. **BMR**: 2011 p. 591 §5; **Covet**: p. 649 §12.
636. The heroine Notices colors of blue and gold. **BMR**: 2011 p. 591 §5-6; **Covet**: p. 649 §12.
637. The heroine notices his age and that his eyes were the blue of a storm at sea / smoke gray. **BMR**: 2011 p. 592 §5-6; **Covet**: p. 649 §13.
638. It's been a long time since he's been human. **BMR**: 2011 p. 595 §3; **Covet**: p. 650 §3.
639. He thanks the heroine for freeing him. **BMR**: 2011 p. 594 §3, p. 595 §5; **Covet**: p. 650 §2-3.

640. He then gives the heroine a magical object and flees the area. **BMR:** 2011 p. 595 §5, p. 598 §2; **Covet:** p. 653 §12 - p. 654 §4.

641. There is fear in him being in the world again. **BMR:** 2011 p. 602 §10 - p. 603 §2; **Crave:** p. 520 §7.

Facts regarding the heroine's grandmother High Priestess (BMR) / God of Chaos or

Bloodletter (Crave):

642. The heroine initially did not know her grandmother was alive, but discovers her in a place that is difficult to find. **BMR:** 2013 p. 430, The World Notes, 2010; **Crush:** p. 142; **Crave:** p. 565.

643. The High Priestess / Bloodletter tells the heroine she's her grandmother. **BMR:** 2013 p. 436 §1; **Court:** p. 159 §13.

644. She was/is a vampire / sanguine. **BMR:** 2011 p. 576; **Crush:** p. 130 §7.

645. And she is the daughter of a deity, and the heroine learns she is the granddaughter of this being and about the balance. **BMR:** 2013 p. 90 §3 (balance); 2016 p. 104 §7 - 105 §1 (daughter of deity); **Covet:** p. 392 §5.

646. The High Priestess / Bloodletter has a hint of / little bit of danger / avarice in her green eyes when she and the heroine see one another. **BMR:** 2016 p. 98 §3; **Crush:** p. 146 §10 - p. 147 §1.

647. The heroine is reminded of a fortune-teller when she's with the High Priestess / Bloodletter. **BMR:** 2013 p. 433 §10 - p. 434 §1; **Covet:** p. 112 §10.

648. The High Priestess / Bloodletter has terms of endearment for the heroine including child and says it's been so / too long. **BMR:** 2013 p. 429 §3; **Covet:** p. 103 §4.

649. The High Priestess / Bloodletter has terms of endearment for the heroine including darling.

BMR: 2011 . 388 §3; **Crush:** p. 151 §6.

650. The High Priestess / Bloodletter hugs the heroine. **BMR:** 2013 p. 429 §2, 2013 p. 436 §3;

Covet: p. 103 §11.

651. Heroine tells High Priestess / Bloodletter she feels she has no choice and blurts out/gives an uncensored reply when High Priestess / Bloodletter asks about that. **BMR:** 2013 p. 432

§2-5; **Covet:** p. 111 §4-6.

652. The heroine is told she has great gifts that demands / requires sacrifices. **BMR:** 2013 p. 433

§3-9; **Crush:** p. 151 §2-12.

653. The heroine thinks about a test when talking to the High Priestess / Bloodletter. **BMR:** 2013

p. 435 §4; **Covet:** p. 103 §8.

654. The High Priestess / Bloodletter tells the heroine that magic/magical gift has a price. **BMR:**

2013 p. 92 §7; **Crush:** p. 168 §7.

655. The Heroine / Romantic Lead wants the High Priestess / Bloodletter to tell them what to do, but instead the High Priestess / Bloodletter asks them a question. **BMR:** 2012 p. 499 §2

(ask what to do); 2013 p. 432 §2 (asks question in response); **Crave:** p. 459 §8.

656. The High Priestess / Bloodletter eyes glistened/glassy with unshed tears when she talks to

heroine about the vampire prince/king's actions that have caused "strife." **BMR:** 2011 p.

577 §1; **Court:** p. 175 §1.

657. The High Priestess / Bloodletter tells the heroine to sit and motion/gestures to do so.

Heroine notices all the colors. Heroine tries to / doesn't make sense of the scene. **BMR:**

2013 p. 431 §2-3; **Covet:** p. 104 §9, p. 105 §5.

Facts regarding heroine's aunt / uncle, Aunt Brie (BMR)/Uncle Finn (Crave):

658. Heroine's remaining two family members are both witches: aunt and mother / uncle and cousin and she lives with them. **BMR:** 2013 p. 220 §2; **Crave:** p. 316 §1, p. 339 §12.
659. One of the heroine's parents is a witch. **BMR:** 2010 p. 374 §11; **Crave:** p. 339 §12.
660. The aunt/uncle gives the heroine advice about the supernatural world and wants her to leave Alaska to keep her safe. **BMR:** 2014 pp. 279-280, 373-375; **Crave:** pp. 345-351.
661. The aunt/uncle kisses the heroine on top of the head as a sign of affection. **BMR:** 2013 p. 374 §11; **Covet:** p. 423 §12.
662. The aunt/uncle pats the heroine's hand after discussing the death of her parents. **BMR:** 2013 p. 76 §3-4; **Crave:** p. 116 §5-8.
663. The aunt/uncle talks to the heroine about an amulet / set of rune stones that was once her father's and now belongs to the heroine. **BMR:** 2011 p. 79 §8 - p. 80 §1, 2011 p. 439 §7; **Covet:** p. 423 §14.
664. The heroine describes what this object of her father's looks like. **BMR:** 2011 p. 80 §1; **Covet:** p. 423 §8.
665. Her aunt/uncle explains the meaning of the semi-precious stones to the heroine. **BMR:** 2011 p. 80 §4 - p. 81 §1; **Covet:** p. 423 §10.
666. The heroine's emotions stick in her throat during conversation with her aunt/uncle about her father's amulet/runes because she misses her father. **BMR:** 2011 p. 81 §2; **Covet:** p. 424 §1.
667. The heroine's aunt/uncle tells her not to take the object off, ever / keep it on her at all times. **BMR:** 2011 p. 81 §5; **Covet:** p. 424 §10.

668. When aunt/uncle talks to the heroine about the stone and her father, the aunt/uncle is not completely forthcoming. **BMR**: 2011 p. 81 §3-5; **Covet**: p. 424 §12-13.
669. The heroine learns there is war among supernaturals with earth as the battlefield / a giant turf war. **BMR**: 2011 p. 230 §3-7; **Crave**: p. 344 §2-3.
670. The heroine contemplates her new reality regarding the supernatural, school, things that go bump in the night, and the war. **BMR**: 2011 p. 236 §1 (supernatural is reality), p. 237 §3 (bump in the night), p. 462 §4 (school, war); **Crave**: p. 343 §8 - p. 344 §2.
671. The heroine's aunt and mother / uncle and cousin kept the supernatural world from her and the heroine is upset. **BMR**: 2013 p. 343 §1, p. 345 §1-3; **Crave**: p. 343 §5-8.
672. The heroine's aunt, mother / uncle want her to leave Alaska because they believe she's in danger, that she might be killed. **BMR**: 2014 p. 279 §6-8; **Crave**: p. 345 §4-5.
673. The heroine tells her aunt and mother / uncle that she doesn't want to leave Alaska. **BMR**: 2014 p. 279 §10; **Crave**: p. 350 §8.
674. The aunt tells the heroine she won't risk losing her / the uncle tells the heroine he can't let anything happen to her. **BMR**: 2014 p. 280 §9; **Crave**: p. 345 §1, p. 351 §6.
675. The heroine is told by the vampire prince / her uncle that vampires are born, and can also be made. **BMR**: 2011 p. 541 §5, 2010 p. 438 §5; **Crave**: p. 348 §11.
676. The uncle tells the heroine that the romantic lead's kind of supernatural are the result of a genetic mutation (in *Crave* the romantic lead tells the heroine this). **BMR**: 2010 p. 338 §9 - p. 339 §9, 2011 p. 421 §2 - p. 422 §5; **Crave**: p. 350 §1-3.
677. The uncle has a woodsy scent (in *Crave* the romantic lead has a woodsy scent). **BMR**: 2010 p. 14 §4; **Crush**: p. 8 §6.

Facts regarding the heroine's female nemesis, Taylor (BMR) / Lia (Crave) character:

678. Taylor / Lia is one of the most beautiful girls the heroine has ever seen. **BMR:** 2014 p. 17, §7; **Crave:** p. 94 §3.
679. Taylor / Lia is the popular girl. **BMR:** 2010 p. 125 §1; **Crave:** p. 105 §9.
680. Taylor / Lia is a supernatural being who feeds on others for sustenance. **BMR:** 2013 p. 382 §9, p. 423 §8; **Crave:** p. 313 §12-19.
681. Taylor / Lia does not get along with the romantic lead. **BMR:** 2011 p. 330 §10; **Crave:** p. 425 §7.
682. Taylor / Lia tries to slap the heroine's face. **BMR:** 2013 p. 279 §7; **Crave:** p. 479 §7.
683. Taylor / Lia calls the heroine pathetic in the kidnapping scene. **BMR:** 2012 p. 489 §5; **Crave:** p. 483 §7-9.
684. Taylor / Lia gives the heroine drink in a cup at/after a party and tells the heroine she will like it. **BMR:** 2013 p. 276 §13 - p. 277 §1; **Crave:** p. 100 §5 - p. 101 §5.
685. The heroine finds the drink fruity/floral. **BMR:** 2013 p. 277 §4; **Crave:** p. 101 §5.
686. The heroine says she needs to go after having the drink. **BMR:** 2013 p. 277 §4; **Crave:** p. 103 §14.
687. Taylor / Lia tells the heroine to stay and drink more of the drink. **BMR:** 2013 p. 277 §5; **Crave:** p. 104 §1.
688. Taylor / Lia has a look on her face when the heroine says she needs to go. **BMR:** 2013 p. 278 §3; **Crave:** p. 104 §1.
689. Taylor / Lia rolls eyes and is rude. **BMR:** 2013 p. 277 §1; **Crave:** p. 105 §5.
690. The drink makes the heroine sick and causes her to throw up. **BMR:** 2013 p. 288 §7 (sick), 2013 p. 289 §3 (throw up); **Crave:** p. 109 §1 (sick), p. 108 §1 (throw up).

691. The heroine learns it was Taylor / Lia's drink that made her ill. **BMR**: 2013 p. 293 §4;
Crave: p. 451 §4.
692. Taylor / Lia tries to make the heroine believe she (Taylor / Lia) is romantically linked to the
romantic lead. **BMR**: 2011 p. 149 §7; **Crave**: p. 295 §14 - p. 296 §3.
693. The heroine is upset when Taylor / Lia mentions the romantic lead's name and is with him.
BMR: 2011 p. 149 §6; **Crave**: p. 295 §15.
694. The heroine decides its not true that Taylor / Lia is romantically linked to the romantic lead.
BMR: 2011 p. 151 §3; **Crave**: p. 296 §4.
695. Taylor / Lia gives the heroine and another person sly look after a long moment. **BMR**: 2013
p. 23 §2; **Crave**: p. 243 §2.

Facts regarding the vampire prince Julian (BMR) / Vampire King Cyrus (Crave):

696. He is a vampire prince / vampire King. **BMR**: 2011 p. 530 §5 (prince), §6 (vampire);
Crush: p. 376 §2 (king and vampire).
697. He belongs to a royal court. **BMR**: 2011 p. 542 §7; **Crush**: p. 485 §6.
698. He sits on a throne. **BMR**: 2011 p. 526 §3; **Crush**: p. 376 §2.
699. He has a British accent. **BMR**: 2012 p. 272 §6; **Court**: p. 629 §11.
700. He is described as "like a cobra." **BMR**: 2011 p. 552 §8; 2010 p. 447 §8; 2012 p. 472 §9;
Crush: p. 380 §5.
701. He is tall. **BMR**: 2011 p. 507 §5; 2012 p. 272 §4; **Crush**: p. 379 §6, p. 639 §5.
702. He has short, dark hair in a modern cut/buzz cut. **BMR**: 2010 p. 398 §3; **Court**: p. 86 §3.
703. He has blue eyes, intense shade of blue/shade of cobalt. **BMR**: 2010 p. 398 §3; 2013 p. 403
§4; **Crush**: p. 379 §6.

704. He is responsible for imprisoning the Alistair/Althair character (discussed above) in his supernatural form. **BMR:** 2011 p. 547 §2; **Covet:** p. 544 §1.
705. He's an elitist / supremacist. **BMR:** Pitch notes to Emily Sylvan Kim, 2013, p. 2 §6; **Covet:** p. 180 §7.
706. He has a special bite, kiss of life, kiss of death/eternal bite. **BMR:** 2011 p. 533 §4; 2012 p. 468 §2; 2011 p. 547 §5 - p. 549 §6; **Crush:** p. 640 §9-10; p. 216 §11; p. 217 §1 - p. 218 §9.
707. He gives the heroine that bite, but she survives. **BMR:** 2011 p. 554 §6 - p. 555 §5; **Crush:** p. 637 §7 - p. 638 §4.
708. He is responsible for imprisoning a grieving woman's mate (Marcheline / Falia). **BMR:** 2011 p. 547 §2; **Covet:** p. 254 §5.
709. The heroine is reminded of Sleeping Beauty in the grieving woman scene. **BMR:** 2012 p. 185 §5; **Covet:** p. 242 §5-6.
710. The grieving woman - Marcheline / Falia is crying. **BMR:** 2011 p. 206 §5; **Covet:** p. 243 §7.
711. The grieving woman is heartbroken because mate is gone. **BMR:** 2011 p. 207 §2; **Covet:** p. 244 §2.
712. The heroine notices that the grieving woman appears fragile and takes/holds her hand. **BMR:** 2011 p. 210 §2; **Covet:** p. 251 §6.
713. The grieving woman feels her imprisoned mate. **BMR:** 2011 p. 213 §6 - p. 214 §1; **Covet:** p. 255 §12.
714. The heroine is offered tea and cookies. **BMR:** 2011 p. 211 §5; **Covet:** p. 249 §13 - p.250 §2.

715. The heroine is in pain on her knees in front of the vampire prince/king. She is defiant and masks her pain. He smiles and looks at her closely. **BMR:** 2011 p. 527 §7 - p. 529 §6; **Crush:** p. 634 §5 - p. 635 §2.
716. He has kidnapped kids from the high school—the heroine’s friends—and drained them of their life force and magic. **BMR:** 2012 pp. 450-451, 2013 pp. 405-409, 397; **Court:** p. 13.
717. The heroine’s friends are / will be powerless as they face him. **BMR:** 2011 p. 531 §7; **Covet:** p. 580 §5.
718. He takes their life force which tells him what kind of magic they have / drains them of magic. **BMR:** 2013 p. 405 §5; **Court:** p. 633 §5.
719. Soul sucker / soul siphon to take the kids’ magic. **BMR:** 2013 p. 408 §1; **Court:** p. 273 §5.
720. Taking their life force / magic could kill them. **BMR:** 2013 p. 404 §1 - p. 405 §5; **Court:** p. 13 §6.
721. He bargains with the heroine to make a deal to save her friends. **BMR:** 2012 p. 455 §6; **Court:** p. 630 §10 - p. 631 §1.
722. The heroine makes a deal to save her friends. **BMR:** 2012 p. 455 §6; **Court:** p. 630 §10; p. 631 §1.
723. He is evil and the heroine feels fury / rage toward him. **BMR:** 2011 p. 551 §1 - p. 554 §6 (first pages of Chapter 51); **Covet:** p. 252 §1 - p. 253 §3 (First pages of Chapter 61).
724. He calls the heroine “little girl.” **BMR:** 2014 p. 323 §1; **Crush:** p. 636 §13.
725. He disgusts the heroine. **BMR:** 2011 p. 576 §5; **Crush:** p. 380 §3.
726. He has a daughter with a woman not his mate, a surprise in the story. His daughter is related to the heroine by blood, she is half-sister / she is her cousin. **BMR:** 2014 p. 338 §5; p. 339 §5; **Court:** p. 435 §17-18.

727. The heroine offers his daughter, Taylor / Izzy (parallel characters) a choice. His daughter chooses her father, vampire prince / vampire king. **BMR:** 2014 p. 340 §3-5; **Court:** p. 349 §4-14; p. 350 §1-2.

Facts regarding heroine's male friend, Brendan (BMR) / Flint (Crave):

728. He is multi-racial. **BMR:** 2011 p. 100 §4; **Crush:** p. 382 §7; **Crave:** p. 35 §4.

729. The heroine describes him as having warm brown skin and describes his eyes. **BMR:** 2010 p. 77 §4; 2011 p. 100 §4; **Crave:** p. 35 §2.

730. He is gay and only the heroine knows at first. **BMR:** 2011 p. 100 §3; **Crush:** p. 388 §1,10.

731. He waggles his brows at the heroine. **BMR:** 2011 p. 166 §1; **Crush:** p. 272 §10; **BMR:** 2013 p. 97 §6; **Crush:** p. 439 §5.

732. He teases the heroine and calls her nicknames throughout the story. **BMR:** 2011 p. 141 §2 (pumpkin), p. 166 §6 (pumpkin), p. 180 §4 (pumpkin), p. 515 §6 (peaches), 104 §3-6 (peaches, sweetie pie); 2012 p. 124 §5; 2013 p. 129 §4; 2011 p. 141 §5; **Crush:** p. 40 §2, p. 41 §6, p. 184 §1, p. 248 §7, p. 266 §10, p. 284 §11; **BMR: Crush:** p. 318 §1-3.

733. He calls the heroine “baby” when teasing her. **BMR:** 2011 p. 165, 2012 p. 124, 2013 p. 129; **Crush:** pp. 231, 318.

734. He wears clothing with funny animals on it with the heroine. **BMR:** 2011 p. 141 §2-5; **Crave:** p. 142 §6-10.

735. He is a supernatural creature with wings and the heroine flaps her arms when she learns about his wings. **BMR:** 2013 p. 405 §6; 2013 p. 283 §7; **Crave:** p. 314 §8-11.

736. Heroine thinks he is beautiful in his supernatural form. **BMR:** 2013 p. 283 §7; **Crush:** p. 274 §14-16; p. 275 §1.

737. The romantic lead stares at Brendan / Flint, and keeps looking at him until Brendan / Flint looks away. **BMR:** 2011 p. 164 §9; **Crave:** p. 156 §4, 157 §2-7.
738. He is charming and known for his big smile / grin. **BMR:** 2011 p. 102 §7; 2010 p. 79 §7; **Crave:** p. 142 §8; **Crush:** p. 42 §5.
739. Brendan / Flint is involved in school leadership activities. **BMR:** 2011 p. 99 §2; **Crush:** p. 394 §1.
740. He's on the school sports team. **BMR:** 2011 p. 100 §4; **Crush:** p. 245 §3.
741. He's smart. **BMR:** 2013 p. 100 §7; **Crave:** p. 43 §3; **Crush:** p. 388 §8.
742. He's in a school activity with the heroine and their friends. **BMR:** 2013 p. 110 §3, p. 111 §2; **Crush:** p. 245 §3, p. 318 §5, p. 321 §4; p. 322 §7.
743. He drapes an arm around the heroine's shoulders and gives a look. **BMR:** 2012 p. 93 §3-5; **Crush:** p. 54 §8.

Facts relevant to other minor characters:

744. Mason (BMR) / Xavier (Crave) are parallel characters, both known for telling jokes, being best friends with Brendan/Flint, participate in school activities with Brendan/Flint, and are enamored with Macy/Jenny (heroine's best friend) and is a supernatural creature. **BMR:** 2013 p. 100 (funny), 2011 p. 165 (jokes), 142 (witty zingers); **Crush:** p. 349 (funny jokes); **BMR:** 2013 p. 408, **Crush** p. 320 (supernatural creature); **BMR** 2011 p. 142 (likes Jenny/Macy), **Crush** p. 320 (same).
745. Rachel/Eden are parallel characters. Both have black hair, piercings, are a tough "force to be reckoned with" / "badass", stand out in a crowd, are close friends with Brendan/Flint, have wings, and wear platform / combat boots. **BMR:** 2011 p. 45, **Crush** p. 318 (force, fearless / badass, don't mess with); **BMR:** 2011 p. 112, **Crush** p. 318 (piercings); **BMR**

2011 p. 45, **Crush** p. 319, 348 (black hair, boots, stands out); BMR 2013 p. 283, **Crush** p. 318 (supernatural creature with wings); **BMR** 2012 p. 104, **Crush** p. 318 (friends with Brendan/Flint and in school activity together).

746. Both works have a character named “Marise.” **BMR:** 2014 p. 155; **Crave:** p. 273.

747. Both works have a character named Gwendolyn / Gwen. **BMR:** 2014 p. 87; **Crave:** p. 81.

748. Both works have a character named Aedan / Aidan. **BMR:** 2014 p. 87; **Crush:** p. 382.

749. Both works have a character named Lily. **BMR:** 2011p. 53; **Crave:** p. 80.

750. Both works have a character named Fiona. **BMR:** 2011 p. 448, **Crave:** p. 212.

751. Both works have a character named Emma. **BMR:** 2016 p. 22, **Court:** p. 88.

752. Both works have a character named Morrigan. **BMR:** 2011 p. 497, **Crush:** p. 118.

753. Both works have a character named Collin/Colin. **BMR:** 2011 p. 417-418; **Court:** p. 293

Facts regarding pop culture references made by Heroine:

754. Lord of the Rings. **BMR:** 2011 p. 292 §5; **Crush:** p. 184 §4

755. Star Wars. **BMR:** 2011 p. 495 §2, 2011 p. 101 §6; **Crave:** p. 191 §11, §12; **Crush** p. 172 §4.

756. Twilight book series: The romantic lead’s sister refers to the heroine and romantic lead as

Edward and Bella from Twilight in humor / romantic lead sends the heroine the book

Twilight in humor. **BMR:** 2011 p. 484 §3; **Crave:** p. 196 §9.

757. Humpty Dumpty. **BMR:** 2011 p. 346 §3; **Covet:** p. 414 Chapter 100 Title

758. Tom Cruise and old movies. **BMR:** 2011 p. 42 §7; **Crave:** p. 262 §10.

759. Sleeping Beauty in reference to carvings. **BMR:** 2011 p. 72 §1, p. 210 §1, p.476 §3,§4;

Covet: p. 242 §6-§7.

760. Peter Pan in reference to the heroine's comments on flying. **BMR:** 2011 p. 483 §7 - p. 484 §1; **Crush:** p. 328 §7.

761. Superman and Lois Lane movie. **BMR:** 2011 p. 484 §1; **Covet:** p. 282 §1.

762. Barbie and pink reference. **BMR:** 2011 p. 144 §5; **Crave:** p. 42 §2.

763. Shakespeare. **BMR:** 2011 p. 40 *Julius Caesar* §6, 2013 p. 6 *Julius Caesar* §5; **Crave:** p. 164

Julius Caesar §3; **BMR:** 2013 p. 6 §5 *Macbeth*; **Crave:** p. 56 (Chapter Title) *Macbeth*;

BMR: 2011 p. 284 §8 *Romeo and Juliette*; **Covet:** p. 407 §13 *Romeo and Juliet*.

764. Harry Potter. **BMR:** 2011 p. 533 §3; **Crave:** p. 53 §1.

765. Monopoly and get out of jail free card. **BMR:** 2011 p. 305 §1; **Covet:** p. 329 §1.

766. The Grail/ the Holy Grail. **BMR:** 2010 p. 67 §6, 2011 p. 88 §8; **Crush:** p. 69 §6.

767. Snow White. **BMR:** 2014 p. 102 §1; **Covet:** p. 665 §10.

768. The Wizard of Oz (Vampires...Oh my!). **BMR:** 2011 p. 500 §6; **Crave:** p. 324 Chapter 41 Title.

769. The Incredible Hulk/ The Hulk. **BMR:** 2013 p. 59 §8-§10; **Covet:** p. 179 §14.

770. Three Musketeers. **BMR:** 2011 p. 518 §2; **Crush:** p. 89 §2.

771. Grey's Anatomy. **BMR:** 2010 p.17 §3, 2011 p. 21 §5; **Crave:** p. 281 §2.

772. Heroine thinks of small Stonehenge/ Stonehenge lite and harnessing energy and portals.

BMR: 2011p. 113 §1, p. 243 §5; **Court:** p. 588 §11-§13, p. 594 §3 - p. 595 §10

773. Heroine hugs/ huddle and has visions of reptiles (snakes/ turtles) dancing in her head.

BMR: 2011 p. 382 §11; **Crush:** p. 338 §1.

774. Heroine makes reference to body snatchers/ pod people. **BMR:** 2011 p. 33 §6, 2013 p. 260

§3; **Crush:** p. 126 §1, p. 373 §7.

Facts regarding war/balance/humans:

775. War going on forever between supernaturals, supernatural beings, and humans. **BMR:** 2011 p. 230 §7, 2011 p. 574 §6, *The Plot*, 2008 p. 1 §5, 2014 p. 377 §3; **Crave:** p. 344 §2, p. 567 §5; **Crush:** p. 219 §9; **Covet:** p. 393 §1, p. 394 §6, p. 395 §5.
776. The balance is off and the world is in danger / storms and erratic weather due to fighting. **BMR:** 2013 Chapter Outline to Emily Sylvan Kim p. 22 §3, 2014 p. 272 §3, *The World Notes* 2010 p. 1 §7; **Covet:** p. 111 §12 - p. 112 §1.
777. There is a vampire prince / vampire King who wants supernatural beings to take over the earth. **BMR:** Pitch notes to Emily Sylvan Kim, 2013, p. 2 §2; **Crush:** p. 459 §1.
778. Humans are being used as an excuse for the war because they are disturbing the balance with overpopulation/overcrowding. **BMR:** Pitch notes to Emily Sylvan Kim, 2013, p. 3 §4; 2013 p. 201 §5; 2011 p. 123 §5; 2011 p. 293 §5; **Crush:** p. 457 §4 - p. 458 §4.

Facts regarding the castle:

779. The romantic lead and his family live in an Old World European Chateau in BMR/The boarding school is in a castle in Crave. **BMR:** 2013 p. 322; **BMR:** 2011 p. 412; **Crave:** p. 13
780. The heroine describes the chateau as an architectural masterpiece/ the castle as architecture she's only heard described in art class. **BMR:** 2011 p. 412; **BMR:** 2013 p. 322; **BMR:** *The Plot*, 2008; **Crave:** p. 13, 16-17

Additional Facts:

781. Romantic lead tells heroine he is 17, and heroine jokingly asks if that is in human or dog years. **BMR:** 2011 p. 420

782. Heroine calls her teacher Lord Viking. **BMR:** 2011 p. 419
783. Heroine calls romantic lead “Mr . Hotpants.” **BMR:** 2011 p. 29
784. Heroine does not want to be protected and does not want the romantic lead to protect her. **BMR:** 2011 p. 600; **BMR** 2012 p. 429; **BMR** 2013 p. 53, 367; **Crush:** p. 28, 431.
785. The heroine refers to the first voice in her head as her “inner voice.” **BMR:** 2011 p. 456; **BMR:** 2013 p. 387; **Crave:** p. 484; **Crush:** pp. 438, 455.
786. The heroine talks back to the first voice when it gives her warnings or tells her what to do. **BMR:** 2013 p. 360; **BMR:** 2012 p. 394; **Crush:** p. 438, 533.
787. The first voice’s face is sad. **BMR** 2011 pp. 12, 583; **Covet:** p. 649; **Court:** p. 37.
788. The death of heroine’s family involved an and accident where the car they were in fell a long distance. **BMR** 2010 pp. 100-101; **Crave** p. 45
789. The walls in heroine’s home/in heroine’s school are decorated with gemstones. **BMR:** 2011 p. 210; **Crave:** pp. 238-239
790. During the kidnapping of heroine scene, the heroine is worried about the attackers hurting someone else. **BMR:** 2013 p. 63; **Crave:** p. 54.
791. The air between the romantic lead and heroine during the first kiss scene is electric. **BMR** 2013 p. 117; **Crave** p. 267.
792. Romantic lead keeps the heroine warm during the first kiss scene. **BMR:** 2013 p. 155; **Crave:** p. 261.
793. The heroine learns about a “sanctuary” which is a safe place for supernaturals located among trees in a forest and is “magic”. **BMR:** 2012 pp. 402, 414, 481; **Crush:** p. 248, 434.
794. In BMR, there is a Katmai, which is the place the heroine and her friends go after discovering that she is a supernatural being.**BMR:** The World Notes 2010.

Respectfully submitted,

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cc: All counsel of record (via ECF)

I, Mark D. Passin, hereby certify that a true and correct complete copy of Plaintiff's Response to Defendants' Rule 56.1 Statement of Material Facts has been served on all counsel of record via the Court's CM/ECF service.

/s/ Mark D. Passin

Mark D. Passin